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FEDERAL REGISTER

VOLUME 24 NUMBER 115

PART I

Washington, Friday, June 12, 1959

Title 3—THE PRESIDENT

Proclamation 3299

FLAG DAY, 1959

By the President of the United States
of America

A Proclamation

WHEREAS on June 14, 1777, the Continental Congress resolved "That the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation"; and

WHEREAS the flag's original field of stars has expanded with the passing years as our Nation has grown and prospered under the principles of liberty, justice, and representative government; and

WHEREAS it is fitting that on the anniversary of its origin we pay especial honor to the Stars and Stripes, which stands for the basic principles of our Republic; and

WHEREAS the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for the observance of that day:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby proclaim Sunday, June 14, 1959, to be Flag Day; and I call upon the responsible officials of the Federal Government and of the State and local governments to arrange for the display of the flag on all public buildings on that day.

I also urge the people of the United States to observe Flag Day by flying the flag at their homes and other suitable places and by organizing and participating in appropriate services and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

No. 115—Pt. I—1

This issue includes two parts bound together. Part II contains several documents of the Alcohol and Tobacco Tax Division, Internal Revenue Service.

DONE at the City of Washington this tenth day of June in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

[F.R. Doc. 59-4925; Filed, June 10, 1959;
4:22 p.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, subparagraph (6) is added to § 6.102(h) as set out below.

§ 6.102 Department of State.

(h) Office of Assistant Secretary for Public Affairs. * * *

(6) One Special Assistant to the Deputy Assistant Secretary (Domestic Affairs).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended;
5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE
COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-4890; Filed, June 11, 1959;
8:47 a.m.]

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CFR SUPPLEMENTS

(As of January 1, 1959)

The following supplement is now available:

Title 26 (1954), Part 222 to end (\$2.75)

Previously announced: Title 3, 1958 Supp. (\$0.35); Titles 4-5 (\$0.50); Title 6 (\$1.75); Title 7, Parts 1-50 (\$4.00); Parts 51-52 (\$6.25); Parts 53-209 (\$5.50); Parts 210-899 (\$2.50); Parts 900-959 (\$1.50); Part 960 to end (\$2.25); Title 8 (\$0.35); Title 9 (\$4.75); Titles 10-13 (\$5.50); Title 14, Parts 1-39 (\$0.55); Parts 40-399 (\$0.55); Part 400 to end (\$1.50); Title 15 (\$1.00); Title 16 (\$1.75); Title 18 (\$0.25); Title 19 (\$0.75); Title 21 (\$1.00); Titles 22-23 (\$0.35); Title 24 (\$4.25); Title 25 (\$0.35); Title 26, Parts 1-79 (\$0.20); Parts 80-169 (\$0.20); Parts 170-182 (\$0.20); Part 300 to end, Title 27 (\$0.30); Title 26 (1954) Parts 1-19 (\$3.25); Parts 20-221 (\$3.00); Titles 28-29 (\$1.50); Titles 30-31 (\$3.50); Title 32, Parts 1-399 (\$1.50); Parts 400-699 (\$1.75); Parts 700-799 (\$0.70); Parts 800-1099 (\$2.50); Part 1100 to end (\$0.35); Title 32A (\$0.40); Title 33 (\$1.50); Titles 35-37 (\$1.25); Title 38 (\$0.55); Title 39 (\$0.70); Titles 40-42 (\$0.35); Title 43 (\$1.00); Titles 44-45 (\$0.60); Title 46, Parts 1-145 (\$1.00); Parts 146-149, 1958 Supp. 2 (\$1.50); Part 150 to end (\$0.50); Title 47, Parts 1-29 (\$0.70); Part 30 to end (\$0.30); Title 49, Parts 1-70 (\$0.25); Parts 71-90 (\$0.70); Parts 91-164 (\$0.40); Part 165 to end (\$1.00); Title 50 (\$0.75)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

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Title 7—AGRICULTURE

Chapter II—Agricultural Marketing Service (School Lunch Program), Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Miscellaneous Amendments

The designated sections of the National School Lunch Program regulations are hereby amended to read as follows:

§ 210.2 Definitions.

(k) The term "school" means the governing body responsible for the administration of a public or nonprofit private "school" of high school grade or under, as defined in the statutes of the State, and, in the case of Puerto Rico, also includes nonprofit child-care centers certified as such by the Governor of Puerto Rico. The term also includes a nonprofit agency to which the school has delegated authority for the operation of its nonprofit lunch program.

(1) The term "State" means any State of the United States, Alaska, Hawaii, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

§ 210.9 Requirements for lunches.

(a) * * *

(2) The State Agency, or FDD where applicable, may allow schools to serve to children in the elementary grades, lesser quantities of items specified in subdivisions (ii), (iii), and (v) of this subparagraph than are specified above: *Provided, however*, That such allowances are based on the lesser food needs of younger children. If a sufficient supply of fluid whole milk cannot be obtained, the State Agency, or FDD where applicable, may authorize the service of the fluid whole milk equivalent in reconstituted evaporated or dry whole milk, or may approve reimbursement for lunches served without milk. If emergency conditions prevent a school normally having a supply of fluid whole milk from temporarily obtaining delivery thereof, the State Agency, or FDD where applicable, may approve reimbursement for lunches served without milk during the emergency period. If a sufficient supply of fluid whole milk is obtainable, the State Agency, or FDD where applicable, may reimburse for lunches served without milk: *Provided, however*, That each child is offered a Type A lunch with milk: *And provided further*, That no reduction is made in the price of the Type A lunch when children do not take the milk.

(c) In Puerto Rico and the Virgin Islands the following variations from the lunch requirements are authorized: In the Type A and the Type C lunch the milk requirement may be met by serving either fluid whole milk, or reconstituted evaporated milk, or reconstituted dry whole or nonfat dry milk. In the Type A lunch, a serving of rice or a starchy vegetable, such as tanniers, yams, plantains, sweet potatoes, or a serving of enriched or whole grain cereal products such as macaroni, dumplings or noodles, may be substituted for the bread requirement; and the minimum amount of butter or fortified margarine may be reduced by one-half of the prescribed amount.

§ 210.18 Miscellaneous provisions.

(a) *Disqualification and non-compliance* * * *

(b) *Saving clause*. Any or all of the provisions of this part may be withdrawn, or amended, at any time by the Department: *Provided, however*, That any withdrawal or amendment shall not be made without due prior notice in writing to the State Agencies or to non-profit private schools in which the program is administered by FDD: *And provided further*, That any change in the requirements for lunches or in the maximum rates of reimbursement shall become effective at the beginning of a fiscal year.

(Secs. 2-11, 60 Stat. 230-233, as amended; 42 U.S.C. 1751-1760)

Effective date. These amendments shall become effective July 1, 1959.

CLARENCE L. MILLER,
Assistant Secretary.

JUNE 9, 1959.

[F.R. Doc. 59-4891; Filed, June 11, 1959; 8:47 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

Navigation Lights for Royal Canadian Naval Vessels on the Great Lakes, 1959

CROSS REFERENCE: For addition of § 19.60(c), see Title 46, Part 154, F.R. Doc. 59-4863, *infra*.

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS

Hampton Roads, Va. & Galveston Harbor, Tex.

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471), § 202.168 establishing and governing the use and navigation of anchorage in Hampton Roads, Virginia, and adjacent waters, is hereby amended with respect to paragraph (a) (1) (i), and § 202.197 establishing and governing the use and navigation of anchorages in Galveston Harbor, Texas, is hereby revised as follows:

§ 202.168 Hampton Roads, Va. and adjacent waters.

(a) *Hampton Roads*—(1) *Anchorage A, Hampton Bar*. * * *

(i) No vessel shall be anchored in such manner as to swing within 200 feet of the dredged channel leading to Hampton.

§ 202.197 Galveston Harbor, Tex.

(a) *The anchorage grounds*—(1) *Anchorage No. 1*. A rectangular area in Bolivar Roads whose northerly boundary begins at a point located 180°, 250 yards from Galveston Bay Entrance Channel Lighted Bell Buoy 13 and extends 90°, 1,300 yards to its easterly terminus. The easterly and westerly boundaries are lines bearing 180° from each end of the northerly boundary and extending to the sand flats on the northerly side of South Jetty.

(2) *Anchorage No. 2*. An area in Bolivar Roads southward and westward from lines bearing 180° and 241½°, respectively, from Galveston Bay Entrance

Channel Lighted Bell Buoy 13; eastward from longitude 94°45'; and northward from a line bearing 90° from Galveston Channel Lighted Bell Buoy 1.

(3) *Anchorage No. 3*. A triangular area in Bolivar Roads northward and southward of lines bearing 90° and 61½°, respectively, from Galveston Channel Lighted Bell Buoy 1; and westward from longitude 94°45'.

(4) *Anchorage No. 4*. An irregular shaped area in Bolivar Roads southwestward from the North Jetty; northwestward from a line bearing 61½° from Galveston Bay Entrance Channel Lighted Bell Buoy 14; northward from a line drawn from Galveston Bay Entrance Channel Lighted Bell Buoy 14 to Bolivar Roads Lighted Buoy 16 and thence to Bolivar Roads Lighted Bell Buoy 18; eastward from a line bearing 359° from Bolivar Roads Lighted Bell Buoy 18; and southeastward from a line bearing 223° from the old tower (abandoned light-house) on Bolivar Peninsula.

(b) *The regulations*. (1) Anchorage No. 1 is an explosives anchorage and is reserved primarily for vessels engaged in the transportation and handling of explosives and other dangerous articles. The anchoring of vessels in this area shall be subject to the supervision and approval of the Captain of the Port. Vessels not carrying or handling dangerous cargo shall not anchor in this area without the prior approval of the Captain of the Port.

(2) Anchorage No. 2 is a light draft anchorage and is reserved primarily for ships drawing 24 feet or less.

(3) Anchorage No. 3 is a deep draft anchorage and is reserved primarily for ships drawing more than 24 feet.

(4) Anchorage No. 4 is a general anchorage for all types of vessels. Small craft, drilling rigs, barges and other vessels which may safely do so shall anchor shoreward from a 2½-fathom depth. The deeper portions of this area are reserved primarily for ships which can safely anchor in the available depths. Vessels moored by spuds or otherwise so that they are not free to swing on their anchors but which require greater depth than 2½ fathoms, shall anchor as far shoreward as safety will permit and they shall anchor clear of the ships using the deeper portions of the anchorage.

(5) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port is hereby empowered to shift the position of any vessel anchored or moored within or outside of any anchorage area including any vessel which is moored or anchored so as to obstruct navigation or interfere with range lights or other aids to navigation.

[Regs., May 27, 1959, 285/91 (Hampton Roads, Va., and Galv. Hbr., Tex.)—ENGWO] (Sec. 7, 38 Stat. 1053; 33 U.S.C. 471)

BRUCE EASLEY,
Major General, U.S. Army,
Acting The Adjutant General.

[F.R. Doc. 59-4793; Filed, June 11, 1959; 8:45 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER O—REGULATIONS APPLICABLE TO CERTAIN VESSELS DURING EMERGENCY

[CGFR 59-25]

PART 154—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS¹

Navigation Lights for Royal Canadian Naval Vessels on the Great Lakes, 1959

The purpose for the following waiver order designated § 154.60(c), as well as 33 CFR 19.60(c), is to waive the requirements in the "Rules of the Road" for the Great Lakes and their connecting and tributary waters, which are administered and enforced by the Coast Guard to the extent necessary to permit Royal Canadian Naval Vessels to operate in the Great Lakes and their connecting and tributary waters; which are under the jurisdiction of the United States, without complying in all details with the navigation light requirements governing vessels while in Great Lakes waters.

It is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, rule making procedure thereon, and effective date requirements thereof) is contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by an order of the Acting Secretary of the Treasury, dated January 23, 1951, identified as CGFR 51-1, and published in the FEDERAL REGISTER January 26, 1951 (16 F.R. 731), the following waiver order is promulgated and shall be in effect during the period of time specified below unless sooner terminated by proper authority:

§ 154.60 Navigation lights for certain British Naval vessels on Great Lakes, 1959.

(c) Pursuant to the provisions of section 1 of the Act of December 27, 1950 (64 Stat. 1120; 46 U.S.C. note prec. 1), I hereby waive in the interest of national defense compliance with the provisions of the "Rules of the Road" for the Great Lakes and their connecting and tributary waters relating to navigation light requirements, as well as any regulation prescribed relating thereto and published in 33 CFR Part 90, to the extent necessary to permit the operation of Royal Canadian Naval vessels in all of

¹ This is also codified as 33 CFR Part 19.

the Great Lakes and their connecting and tributary waters, which are under the jurisdiction of the United States, without complying in every detail with the navigation light requirements governing Great Lakes' vessels. This waiver order shall be in effect from June 15 to and including September 15, 1959, unless sooner terminated by proper authority.

(Sec. 1, 64 Stat. 1120; 46 U.S.C., note prec. 1)

Dated: June 5, 1959.

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 59-4863; Filed, June 11, 1959; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[5th Rev. S.O. 95; Amdt. 8]

PART 95—CAR SERVICE

Appointment of Refrigerator Car Agent

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 4th day of June A.D. 1959.

Upon further consideration of the provisions of Fifth Revised Service Order No. 95 (18 F.R. 473, 3732, 7642; 19 F.R. 4003, 20 F.R. 4688; 21 F.R. 4814; 22 F.R. 4488; 23 F.R. 4812), and good cause appearing therefor:

It is ordered, That § 95.95 *Appointment of refrigerator car agent*, of Fifth Revised Service Order No. 95, be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) This order, as amended, shall expire at 11:59 p.m., June 30, 1960, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

(Sec. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4))

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1959; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Sec-

retary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-4866; Filed, June 11, 1959; 8:46 a.m.]

[S.O. 924; Amdt. 2]

PART 95—CAR SERVICE

Baltimore and Ohio Railroad Co. Authorized To Operate Over Certain Trackage of the Maryland and Pennsylvania Railroad Co.

At a Session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 4th day of June A.D. 1959.

Upon further consideration of Service Order No. 924 (23 F.R. 4383, 9605), and good cause appearing therefor:

It is ordered, That § 95.924 *The Baltimore and Ohio Railroad Company authorized to operate over certain trackage of the Maryland and Pennsylvania Railroad Company*, of Service Order No. 924, be, and it is hereby amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1959, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1959.

(Secs. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies sec. 1(10-17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4))

It is further ordered, That copies of this amendment shall be served upon the Public Service Commission of Maryland and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59-4867; Filed, June 11, 1959; 8:46 a.m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

[Dissolution Order 126]

AMERLAGENE, INC.

Closure and Distribution of Assets

Whereas, by virtue of the issuance of Vesting Order No. 19, dated June 4, 1942 (7 F.R. 4403), and other actions taken under the Trading With the Enemy Act, as amended, the Attorney General of the United States (hereinafter referred to as "Attorney General") successor to the Alien Property Custodian, holds all of the issued and outstanding capital stock of Amerlagene, Inc. (hereinafter sometimes called the "Company"), a corporation organized under the laws of the State of Delaware; and

Whereas, the Company has been substantially liquidated;

Now, therefore, under authority of the Trading with the Enemy Act, as amended, and Executive Orders 9095, as amended, and 9788, and pursuant to law, the undersigned, after investigation:

1. Finding that the known assets of Amerlagene, Inc., consist of cash and investments in United States Treasury Notes aggregating approximately \$45,500; and

2. Finding that the claims of all known creditors of the Company have been paid, except such claim as the Attorney General may have for moneys advanced or services rendered to or on behalf of the Company, and claims for taxes, if any, owed by the Company; and

3. Having determined that it is in the national interest of the United States that the Company be dissolved, that its affairs be wound up and its assets distributed, and a Certificate of Dissolution having been issued by the Secretary of State of Delaware on March 9, 1959:

Herby orders, That the officers and directors of Amerlagene, Inc. (to wit: Oliver E. Nickerson, President and Director, John R. Faulconer, Secretary and Director, and Mavis C. Cobb, Treasurer and Director, or their successors, or any of them), wind up the affairs of Amerlagene, Inc., and distribute the assets thereof coming into their possession as follows:

(a) They shall first pay all current expenses and reasonable and necessary charges, if any, of dissolving and winding up the affairs of the Company; and

(b) They shall pay all known Federal, State, and local taxes or fees owed by or accrued against the Company; and

(c) They shall then pay over, transfer, assign, and deliver to the Attorney General all remaining assets or property of the Company of whatever kind or nature (including any after discovered assets or property and all claims and causes of action of whatever kind or nature), the same to be applied, first, in satisfaction of such claim, if any, as the Attorney General may have for moneys advanced or services rendered to

or on behalf of the Company, and second, as a liquidating distribution of assets to the Attorney General as holder of all the issued and outstanding stock of the Company: and

Further orders, That nothing herein set forth shall be construed as prejudicing the rights under the Trading with the Enemy Act, as amended, of any person who may have a claim against Amerlagene, Inc., to file such claim with the Attorney General against any assets or property received by the Attorney General hereunder: *Provided, however*, That nothing herein contained shall be construed as creating additional rights in such person: *And provided further*, That any such claim against said Company shall be filed with or presented to the Attorney General within the time and in the form and manner prescribed for such claims by the Trading with the Enemy Act, as amended, and applicable regulations and orders issued pursuant thereto; and

Further orders, That all actions taken and acts done by the officers and directors of Amerlagene, Inc., pursuant to this Order and the directions contained herein shall be deemed to have been taken and done in reliance on and pursuant to section 5(b) (2) of the Trading with the Enemy Act, as amended (50 U.S.C. App. 5), and the acquittance and exculpation provided therein.

Executed at Washington, D.C., on June 8, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-4872; Filed, June 11, 1959;
8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

Notice of Filing of Plats of Survey and Order Opening Lands

MAY 19, 1959.

Plats of survey of the lands described below will be officially filed in the Land Office, Boise, Idaho, effective at 10:00 a.m., on June 24, 1959.

BOISE MERIDIAN

T. 8 S., R. 14 E.,
Sec. 17: Lots 9, 10, 11;
Sec. 19: Lot 8;
Sec. 20: Lots 8, 9;
Sec. 33: Lots 9, 10.

T. 9 S., R. 14 E.,
Sec. 4: Lot 19;
Sec. 10: Lot 8.

T. 9 S., R. 15 E.,
Sec. 6: Lots 21, 22, 23;
Sec. 9: Lots 15, 16;
Sec. 10: Lot 14.

The area described totals 58.14 acres of public lands.

The above-described lands are opened to application, selection, and petition as described below. The lands have been subject to operation of the United States mining laws and mineral leasing laws at all times. These lands are islands in the Snake River and are lands which were omitted from the previous survey. These small scattered islands are nearly level with a smooth surface. The soil is of an alluvial formation. The cover is mainly willows, briars, brush with an understory of grass. The land has wildlife value as a habitat for waterfowl.

No application for these lands will be allowed under the homestead, desert-land, small-tract, or any other non-mineral public-land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 2 hereof are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph, will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284 as amended), presented prior to 10:00 a.m., on June 24, 1959, will be considered as simultaneously filed at that hour. Rights under such preference rights applications filed after that hour and before 10:00 a.m., on September 23, 1959, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under the paragraphs (1) and (2) above, presented prior to 10:00 a.m., on September 23, 1959, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after

that hour will be governed by the time of filing.

Persons claiming veteran's preference rights under a(2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P.O. Box 2237, Boise, Idaho.

MICHAEL T. SOLAN,
Acting Land Office Manager.

[F.R. Doc. 59-4860; Filed, June 11, 1959;
8:45 a.m.]

National Park Service

[Region 1 Order 3, Amdt. 4]

SUPERINTENDENTS, REGION ONE

Delegation of Authority With Respect to Appointments and Status Changes

APRIL 22, 1959.

1. Section 1 and paragraphs (a), (b), and (c) of section 1; and section 2, and paragraphs (a), (b), and (c) of section 2, of Order No. 3, issued August 28, 1957, are amended to read as follows:

SECTION 1. The National Park Service Superintendents in Region One whose positions are allocated to Civil Service grades GS-14 and above, in the administration, operation, and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Appointments and status changes involving personnel in grade GS-14 and higher grades; however, appointments and status changes involving grade GS-13 must be submitted to the Region One Office for review before being finalized.

(b) Classification of positions in any Civil Service or supervisory wage board grades.

(c) Establishment of permanent graded or ungraded positions.

Sec. 2. The Superintendents whose positions are allocated to Civil Service grades GS-13, GS-12, and GS-11, inclusive, in the administration, operation and development of the areas under their supervision, are authorized to exercise all of the authority now or hereafter delegated to the Regional Director by the Director, except with respect to the following matters:

(a) Appointments and status changes involving personnel in the same Civil Service grade as, or higher grades than, the Superintendent making appointments or status changes.

(b) Classification of positions in any Civil Service or supervisory wage board grades.

(c) Establishment of permanent graded or ungraded positions.

2. Paragraphs (b) and (c) of section 3 of Order No. 3, issued August 28, 1957, are amended to read as follows:

(b) Classification of positions in any Civil Service or supervisory wage board grades:

(c) Establishment of permanent graded or ungraded positions.

(National Park Service Order No. 14; 39 Stat. 535; 16 U.S.C., 1952 ed., sec. 2)

ELBERT COX,
Regional Director.

[F.R. Doc. 59-4861; Filed, June 11, 1959;
8:45 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-93]

MOORE-McCORMACK LINES, INC.

Notice of Application and of Hearing

Notice of hearing in the above-captioned matter appeared in the FEDERAL REGISTER issue of June 2, 1959 (24 F.R. 4497).

Notice is hereby given that the "SS Mormacguide" has been substituted for the "SS Robin Mowbray".

Dated: June 9, 1959.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F.R. Doc. 59-4900; Filed, June 11, 1959;
8:48 a.m.]

Office of the Secretary

KEVILLE L. LARSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

A. Deletions: New York Port of Authority Bonds.

B. Additions: No change.

This statement is made as of May 30, 1959.

KEVILLE L. LARSON.

MAY 30, 1959.

[F.R. Doc. 59-4858; Filed, June 11, 1959;
8:45 a.m.]

ROBERT G. PETERSEN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and

Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

A. Deletions: Transworld Airlines.

B. Additions: Penn Dixie.

This statement is made as of May 22, 1959.

R. G. PETERSEN.

MAY 25, 1959.

[F.R. Doc. 59-4859; Filed, June 11, 1959;
8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-103]

AEROJET-GENERAL NUCLEONICS

Amendment to Construction Permit No. CPRR-27

Please take notice that the Atomic Energy Commission has issued Amendment No. 5, set forth below, to Construction Permit No. CPRR-27 extending the latest completion dates for nuclear reactors Model AGN-211, Serial Nos. 103 through 110.

Dated at Germantown, Md., this 5th day of June 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[Construction Permit No. CPRR-27 Amdt. No. 5]

Condition A. of CPRR-27 is hereby amended in the following respect:

The latest completion date for reactors Model AGN-211, Serial Nos. 103 through 110 is September 1, 1960.

This amendment is effective as of the date of issuance.

For the Atomic Energy Commission.

Date of issuance: June 5, 1959.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 59-4856; Filed, June 11, 1959;
8:45 a.m.]

[Docket No. 50-133]

PACIFIC GAS & ELECTRIC CO.

Application for Construction Permit and Utilization Facility License

EDITORIAL NOTE: This application is published pursuant to section 182(b) of the Atomic Energy Act of 1954 (68 Stat. 954; 42 U.S.C. 2232(b)) which requires publication in the FEDERAL REGISTER once a week for four consecutive weeks.

Please take notice that Pacific Gas and Electric Company, 245 Market Street, San Francisco, California, under section 103 of the Atomic Energy Act of 1954 has submitted an application for license authorizing construction and operation of a 50 megawatt (thermal) single-cycle, natural internal circulation, boiling water nuclear reactor as part of Unit No. 3 at its Humboldt Bay Power

Plant located near Eureka, California. A copy of the application is available for public inspection in the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 5th day of June 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of
Licensing and Regulation.

[F.R. Doc. 59-4857; Filed, June 11, 1959;
8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12209 etc.; FCC 59M-727]

DAVID M. SEGAL ET AL.

Order Scheduling Hearing

In re applications of David M. Segal, Boulder, Colorado; Docket No. 12209, File No. BP-10427; Clifford W. Paine & William John Hyland, III, d/b as Denver Broadcasting Company, Denver, Colorado; Docket No. 12883, File No. BP-11791; John L. Buchanan, tr/as Satellite Center Radio Company, Arvada, Colorado; Docket No. 12884, File No. BP-12514; for construction permits.

It is ordered, This 8th day of June 1959, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on July 28, 1959, in Washington, D.C.

Released: June 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4892; Filed, June 11, 1959;
8:48 a.m.]

[Docket No. 12210; FCC 59M-724]

KENNETH G. PRATHER AND
MISHA S. PRATHER

Order Scheduling Hearing

In re application of Kenneth G. Prather and Misha S. Prather, Boulder, Colorado; Docket No. 12210; File No. BP-11289; for construction permit.

It is ordered, This 5th day of June 1959, that the hearing in the above-entitled matter presently continued indefinitely, is hereby scheduled to commence at 10:00 a.m., July 1, 1959, in the offices of the Commission, Washington, D.C.

Released: June 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4893; Filed, June 11, 1959;
8:48 a.m.]

[Docket Nos. 12636, 12637; FCC 59M-723]

FRANK JAMES AND SAN MATEO
BROADCASTING CO.

Order Continuing Hearing

In re applications of Frank James, Redwood City, Calif.; Docket No. 12636, File No. BPH-2344; Grant R. Wrathall, tr/as San Mateo Broadcasting Company, San Mateo, Calif.; Docket No. 12637, File No. BPH-2431; for construction permits.

The Hearing Examiner having under consideration a verbal request for continuance of the date for further hearing from June 15 to July 1, 1959;

It appearing that an informal conference was held on June 4 at which time further hearing dates were discussed and that additional time is needed for the preparation of certain engineering exhibits;

It is ordered, This 5th day of June 1959, that the hearing is continued from June 15 to July 1, 1959.

Released: June 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4894; Filed, June 11, 1959;
8:48 a.m.]

[Docket Nos. 12844-12847; FCC 59M-729]

RICHARD L. DEHART ET AL.

Order Continuing Hearing Conference

In re applications of Richard L. DeHart, Mountlake Terrace, Wash.; Docket No. 12844, Filed No. BP-11312; KVOS, Inc. (KVOS), Bellingham, Wash.; Docket No. 12845, File No. BP-11360; Clair Conger Fetterly, tr/as Lake Washington Broadcasting Company, Bothell, Wash.; Docket No. 12846, File No. BP-11390; John W. Davis (KPDQ), Portland, Oreg.; Docket No. 12847, File No. BP-11436; for construction permits for standard broadcast stations.

In view of the pendency of a petition for dismissal of his application filed by applicant Clair Conger Fetterly, tr/as Lake Washington Broadcasting Company: It is ordered, On the Hearing Examiner's own motion, this 8th day of June, 1959, that the further prehearing conference in this proceeding heretofore scheduled for June 11, 1959, is hereby continued to Thursday, June 18, 1959, at 2:00 p.m., in the offices of the Commission, Washington, D.C.

Released: June 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4895; Filed, June 11, 1959;
8:48 a.m.]

[Docket No. 12848 etc.; FCC 59M-722]

YAKIMA TELEVISION CORP. ET AL.

Order Continuing Hearing Conference

In re applications of Yakima Television Corporation, Yakima, Washington; Docket No. 12848, File No. BPCT-2438; Charles R. White, Yakima, Washington; Docket No. 12849, File No. BPCT-2450; Ralph Tronsud, d/b as Yakima Valley Television Co., Yakima, Washington; Docket No. 12851, File No. BPCT-2587; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration a verbal request for a continuance of the prehearing conference now scheduled for June 8, 1959;

It appearing that the hearing is now scheduled to commence on June 17 and that on a representation from the parties this date could be used both for a conference (if needed) and the hearing;

It is ordered, This 4th day of June 1959 that the prehearing conference is continued from June 8 to June 17, 1959.

Released: June 8, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4896; Filed, June 11, 1959;
8:48 a.m.]

[Docket No. 12,880]

JACKSON GRIFFIN

Order To Show Cause

In the matter of Jackson Griffin, P.O. Box 393, Golden Meadow, Louisiana, Order to Show Cause Why There Should Not Be Revoked the License for Radio Station WG-8506 aboard the vessel Jackson; Docket No. 12,880.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing, that, pursuant to § 161 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Violation Notice dated October 16, 1958, alleging that on October 15, 1958, at 9:20 a.m., the subject radio station was observed in violation of § 8.364 of the Commission's rules—radio transmissions not being identified by announcement of the station's call sign.

Official Violation Notice dated October 28, 1958, alleging that on October 24, 1958, at 9:10 a.m., the subject radio station was observed in violation of § 8.358 (A) of the Commission's rules—superfluous and unnecessary transmission unrelated to safety or a maritime purpose.

It further appearing that the above-named licensee received said Official notice but did not make satisfactory reply

thereto, whereupon the Commission, by letter dated March 30, 1959, and sent by Certified Mail, Return Receipt Requested (No. 34730), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Mrs. Jackson Griffin, on March 31, 1959 to a Post Office Department return receipt; and

It further appearing that although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response thereto has been received; and

It further appearing that, in view of the foregoing, the licensee has willfully violated § 1.61 of the Commission's rules;

It is ordered, This 5th day of June 1959, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing¹ to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this Order by Cer-

¹Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person, or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

tified Mail, Return Receipt Requested to the said licensee.

Released: June 8, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4897; Filed, June 11, 1959;
8:48 a.m.]

[Docket Nos. 12885-12887; FCC 59M-728]

MADISON COUNTY BROADCASTERS ET AL.

Order Scheduling Hearing

In re applications of James B. Tharpe and Joseph L. Rosenmiller, Jr., d/b as Madison County Broadcasters, Granite City, Illinois; Docket No. 12885; File No. BP-11685; Charles H. Norman, John Karoly and George J. Moran, d/b as Tri-Cities Broadcasting Company, Granite City, Illinois; Docket No. 12886, File No. BP-11875; East Side Broadcasting Company, Granite City, Illinois; Docket No. 12887, File No. BP-12530; for construction permits.

It is ordered, This 8th day of June 1959, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on July 28, 1959, in Washington, D.C.

Released: June 9, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4898; Filed, June 11, 1959;
8:48 a.m.]

[Docket No. 12864; FCC 59M-721]

VIRGIN ISLANDS BROADCASTING SYSTEM

Order Continuing Hearing Conference

In re application of Mary Louise Vickers, tr/as Virgin Islands Broadcasting System, Christiansted, Virgin Islands; Docket No. 12864, File No. BMP-8149; for additional time to construct Station WDTV.

On the Hearing Examiner's own motion: It is ordered, This 8th day of June 1959, that the prehearing conference in this matter heretofore scheduled for June 12, 1959, is continued to June 19, 1959, at 10:00 o'clock a.m., in the offices of the Commission, Washington, D.C.

Released: June 8, 1959.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-4899; Filed, June 11, 1959;
8:48 a.m.]

FEDERAL POWER COMMISSION

[Project No. 704]

CALIFORNIA OREGON POWER CO.

Notice of Modification of Land Withdrawal, Oregon

JUNE 9, 1959.

Conformable to the provision of section 24 of the Act of June 10, 1920 (41 Stat. 1036), as amended, this Commission on July 19, 1926, and July 30, 1958, gave notice of the reservation of approximately 167.29 acres of United States land pursuant to the filing by The California Oregon Power Company of an application for license for a transmission line right-of-way on July 7, 1926, and an application for amendment of license on February 4, 1958.

On May 11, 1959, the Licensee filed an application for amendment of license to include a tap line from Transmission Line No. 18 (F.P.C. Project No. 704) to the Big Bend Powerhouse Substation (F.P.C. Project No. 2082).

Therefore in accordance with section 24 of the Federal Power Act of June 10, 1920, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 704 and are, from the date of filing of completed application on May 13, 1959, reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

All portions of the following described subdivisions lying within 50 feet of the center line survey as delimited upon map designated Exhibit K-2, sheet 1 (F.P.C. No. 704-14) entitled "Federal Power Commission Project No. 704, Application for Amendment to License, The California Oregon Power Company, Transmission Line from Fall Creek, California, to Klamath Falls, Oregon, Detail Map" and filed in the Office of the Commission May 12, 1959.

T. 40 S., R. 6 E.,

Sec. 14: Lot 6 and NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The Commission's general determination of April 17, 1922 (2nd. Ann. Rept. 128), regarding lands reserved for transmission line purposes only, is applicable to these lands.

This notice modifies and supplements that given July 19, 1926, insofar as it refers to the location of the transmission line in parts of the above noted subdivisions. The area reserved under this notice embraces approximately 3 acres, of which approximately .44 acre has been heretofore reserved for power purposes under Project No. 2082 and Power Site Reserve No. 258.

A copy of map Exhibit "K-2, Sheet 1" (F.P.C. No. 704-14) has been transmitted to the Bureau of Land Management and Geological Survey.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4887; Filed, June 11, 1959;
8:47 a.m.]

[Docket Nos. G-17650, G-17651]

**MOUNTAIN FUEL SUPPLY CO. AND
PACIFIC NORTHWEST PIPELINE CORP.****Notice of Applications and Date of
Hearing**

JUNE 8, 1959.

Take notice that on January 26, 1959, supplemented on March 23, 1959, Pacific Northwest Pipeline Corporation (Pacific), and on January 27, 1959, supplemented on March 20, 1959, Mountain Fuel Supply Company (Mountain) filed in Docket Nos. G-17651 and G-17650, respectively, applications, pursuant to section 7(c) of the National Gas Act, for certificates of public convenience and necessity authorizing each Applicant to receive and transport natural gas owned by the other in the Big Piney-LaBarge area, Sublette and Lincoln Counties, Wyoming, all as more fully set forth in the respective applications, as supplemented, which are on file with the Commission and open to public inspection.

The subject authorizations are requested to implement a Gathering Agreement dated December 6, 1958, between Pacific and Mountain, under which gas owned by Mountain near Pacific's facilities will be gathered by Pacific and equivalent volumes delivered to Mountain at some existing point of interconnection, and, similarly gas owned by Pacific near Mountain's facilities will be gathered and transported by Mountain and delivered to Pacific at existing points of interconnection.

The purpose of the proposed exchange and transportation services is to avoid duplication of field facilities, resulting in economies to both Applicants which have gas interests and separately authorized facilities in the area involved.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 14, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before June 30, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the inter-

mediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-4888; Filed, June 11, 1959;
8:47 a.m.]

[Docket No. G-14718 etc.]

**KERR-McGEE OIL INDUSTRIES, INC.,
ET AL.****Notice of Applications and Date of
Hearing**

JUNE 8, 1959.

In the matters of Kerr-McGee Oil Industries, Inc.,¹ Docket No. G-14718; Sinclair Oil & Gas Company, Operator,² Docket No. G-14739; J. M. Huber Corporation, Operator,³ Docket No. G-14742; Lyons & Logan, Operator, et al.,⁴ Docket No. G-14743; Robert N. Enfield, Docket No. G-14744; Altord G. Beall, Docket No. G-14746; Sinclair Oil & Gas Company, Docket No. G-14765; James E. Ely, Docket No. G-14782; Sinclair Oil & Gas Company, Operator,⁵ Docket No. G-14791; Standard Oil Company of Texas,⁶ Docket No. G-14794; Great Western Drilling Company,⁷ Docket No. G-14798; R. H. Adkins, Docket No. G-14808; Roy G. Hildreth et al.,⁸ Docket No. G-14809.

Each of the above applicants has filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing each to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

The respective applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket No., Field, Location, and Purchaser

G-14718; Rosston Area, Beaver County, Okla.; Northern Natural Gas Co.

G-14739; Willrode Field, Upton County, Tex.; El Paso Natural Gas Co., and Hunt Oil Co.

G-14742; Greenwood Field, Morton County, Kans.; Colorado Interstate Gas Co.

G-14743; Gibson Field, Terrebonne Parish, La.; United Gas Pipe Line Co.

G-14744; Eumont Field, Lea County, N. Mex.; El Paso Natural Gas Co.

G-14746; Maxie-Pistol Ridge Field, Pearl River County, Miss.; United Gas Pipe Line Co.

G-14765; Hinkle Field, Harris County, Tex.; Trunkline Gas Co.

G-14782; Hugoton Field, Finney County, Kans.; Northern Natural Gas Co.

G-14791; West Panhandle Field, Gray County, Tex.; El Paso Natural Gas Co.

G-14794; Robinson Lake Field, Chambers County, Tex.; Texas Gas Corp.

G-14798; Eumont Field, Lea County, N. Mex.; Permian Basin Pipeline Co.

G-14808; Oceana District, Wyoming County, W. Va.; Hope Natural Gas Co.

G-14809; Lee District, Calhoun County, W. Va.; Hope Natural Gas Co.

These related matters should be heard on a consolidated record and disposed

See footnotes at end of document.

of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on July 14, 1959 at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 3, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

¹ Application covers a basic gas sales contract dated February 10, 1958 and an amendment thereto dated August 12, 1958. Amendment filed covers aforesaid amendment agreement.

² Sinclair Oil & Gas Company, Operator, is filing for its 50 percent working interest in the S. A. Windham Lease and, as Operator, lists the following nonoperators with their respective working interests: Livermore Drilling Company, J. C. Williamson, Cosden Petroleum Corporation, Bill Roden, Trustee, Tri-Service Drilling Company, R. F. Lusk, Jr., Boyd Laughlin, Len G. McCormick, W. D. Riley, Agent, Clyde E. Thomas, Jr., L. R. French Company, James Little, Warren Scarborough, G. H. Marsh, J. P. Nelli, C. S. LeNoir and W. H. Faris. Sinclair is the only signatory seller party to the gas sales contract dated July 8, 1957.

³ J. M. Huber Corporation, Operator, is filing for itself and, as Operator, lists in the application, together with its percentage of working interest, Colorado Oil & Gas Corporation as nonoperator. Huber acquired the subject acreage by instrument of assignment dated January 21, 1958 from Colorado Oil and has become a signatory seller party to a basic gas sales contract dated April 18, 1955, as amended, between Colorado Oil, seller, and Colorado Interstate, buyer, to the extent of the aforementioned assignment. Colorado Oil was authorized in Docket No. G-8789 to sell gas under the basic contract.

⁴ Lyons & Logan, a co-partnership composed of C. H. Lyons, Sr., C. H. Lyons, Jr., Hall M. Lyons, G. L. Logan, E. L. Hilliard, G. F. Abendroth and J. T. Palmer, Operator, is filing on behalf of the following non-operators listed in the amendment to the original application, together with their percentages of working interest: C. H. Lyons, Sr., M. F. McCain, A. M. Jackson, W. P. Prentiss and Rimrock International Company. All non-operators are signatory seller parties to the gas sales contract dated March 1, 1958. It is noted that Lyons and Logan, Operator, owns

no working interest, however, C. H. Lyons, a member of the co-partnership, is also a working interest owner.

⁵ Sinclair Oil & Gas Company, Operator, is filing for itself and lists El Paso Natural Gas Company, which company is also the purchaser, as a nonoperating owner of working interest in the Dorothy Huggins Unit.

⁶ Application covers an amendatory agreement dated March 13, 1958, which adds additional acreage to a basic gas sales contract dated June 4, 1956. Applicant was authorized in Docket No. G-10639 to sell gas under the basic contract.

⁷ Application covers a ratification agreement dated February 1, 1957, of a basic gas sales contract dated February 18, 1952, between Gulf Oil Corporation, seller, and Permian Basin Pipeline Company, buyer. Both Applicant and Permian are signatory parties to the subject ratification agreement. Gulf was authorized in Docket No. G-7160 to sell gas under the basic contract.

⁸ Roy G. Hildreth, et al., Applicant, is a partnership composed of Roy G. Hildreth, O. R. Hardman, Grace Hildreth, Mary Jane Brannon, John M. McKown, Nellie B. Carper, Forrest Hoff, Roy G. Hildreth, Jr., Sylvia Kefter, A. B. Hildreth, and Lucy Reynolds. All partners are signatory seller parties to the subject gas sales contract.

[F.R. Doc. 59-4889; Filed, June 11, 1959; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

PETITION FOR INTERPRETATION OF OPERATING AUTHORITY AND DE- CLARATORY ORDER

JUNE 9, 1959.

Any person or persons desiring to participate in this proceeding may file representations supporting or opposing the relief sought within 30 days after the date of this publication in the FEDERAL REGISTER.

MC-C-2595

Petitioner: CHICAGO-INDIANA FREIGHT LINES, INC., 3808 South Western Avenue, Chicago 9, Ill.

Petitioner's representative: Anthony T. Thomas, 3554 South Archer Avenue, Chicago 9, Ill.

Petitioner's attorney: Jay Stough, 100 West Monroe Street, Chicago 3, Ill.

By Certificate issued in No. MC 80388, dated December 2, 1949, petitioner was authorized to conduct operations in interstate or foreign commerce as follows: "Iron and steel products, canned goods, cement products, packing house products and supplies, feed and fertilizer, and food products, and incidental supplies used in the manufacture and sale thereof, over irregular routes, between Chicago, Ill., and Gary, Hammond, and Whiting, Ind., on the one hand, and, on the other, Louisville, Ky., and points and places in Indiana." Petitioner states in part II of the subject petition: "it has always believed and continues to believe that the authority granted it in said certificate authorized the transportation of Internal Combustion Engines, Tractors and Attachments, Stainless Steel Molding, Iron or Steel Engine, Driving Gear or Steering Gear Parts, Transmissions or Torque Con-

vertors, Iron or Steel Shipping Drums, and Iron or Steel Skids or Racks within the commodity authority description of 'Iron and Steel Products'; Cleaning, Scouring and Washing Compounds, Soap and Soap Powders within the commodity authority description of 'Packing House Products'; and Machines, Machinery and Machinery or Machine Parts used in the manufacture of Iron and Steel Products, canned goods, cement products, packing house products and supplies, feed and fertilizer and food products, and Skids, Racks, Pallets and Drums within the commodity authority description of 'Incidental Supplies' used in the manufacture of iron and steel products, canned foods, cement products, packing house products and supplies, feed and fertilizer and food products." The subject petition requests and prays that the Commission by proper administrative procedure formally interpret and define petitioner's authority as relates to the products and articles specifically named in Part II of the petition, as outlined above, and issue a declaratory order in the premises.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-4868; Filed, June 11, 1959; 8:46 a.m.]

[Notice 138]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 9, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of this order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 60843. By order of June 3, 1959, Division 4, approved the transfer to Yankee Trails, Inc., Rensselaer, N.Y., of Certificate No. MC 30318, issued March 18, 1942, to Everett O. Wager, doing business as Wager Motor Coach Line, Bennington, Vt., authorizing the transportation of passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, over a regular route, between Bennington, Vt., and Troy, N.Y., over Vermont Highway 9 to the Vermont-New York State line, thence over New York Highway 7 to Troy, and return over the same route. Service is authorized to and from all intermediate points. Edward M. Segal, 154 State Street,

Albany, N.Y., for applicants. Dana L. Haskin for Vermont Transit Co., Inc.

No. MC-FC 62115. By order of June 3, 1959, Division 4, Acting as an Appellate Division, approved the transfer to Roy E. Brown, doing business as Brown Truck Company, Milledgeville, Ill., of that portion of the operating rights in Certificate No. MC 75501, issued by the Commission August 13, 1952, to Milton Kauffman, New Boston, Illinois, authorizing the transportation, over irregular routes, of feed, feed minerals, and feed mineral mixtures, from Muscatine, Iowa, to points in Illinois, and agricultural commodities and farm supplies, between Muscatine, Iowa, and points in a specified portion of Illinois. John S. Perry, Fifth Avenue Building, Moline, Illinois.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-4870; Filed, June 11, 1959; 8:46 a.m.]

[Ex Parte MC-55]

MOTOR COMMON CARRIERS OF PROPERTY

Routes; Service

JUNE 9, 1959.

The date for filing representations in the above-entitled proceeding has been postponed from June 15, 1959, to June 29, 1959.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-4871; Filed, June 11, 1959; 8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 9, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35485: *Flour—WTL and southwestern points to Texas Gulf ports.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 358), for interested rail carriers. Rates on flour, manufactured directly from wheat, carloads, from specified points in Kansas, Missouri, Oklahoma, and Texas to Texas Gulf ports for export.

Grounds for relief: Truck competition and rate relationship.

Tariffs: Supplement 10 to Texas-Louisiana Freight Bureau tariff I.C.C. 899, and other schedules listed in the application.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 59-4869; Filed, June 11, 1959; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 226]

KANSAS**Declaration of Disaster Area**

Whereas, it has been reported that during the month of May 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Deputy Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Office below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Marshall (Floods occurring on or about May 29, 1959).

Office: Small Business Administration Regional Office, Home Savings Building, Fifth Floor, 1006 Grand Avenue, Kansas City 6, Missouri.

2. A special field office will be established in Frankfort, Kansas.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1959.

Dated: June 1, 1959.

ALBERT C. KELLY,
Deputy Administrator.

[F.R. Doc. 59-4862; Filed, June 11, 1959; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—JUNE

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FEDERAL REGISTER

THE NATIONAL ARCHIVES
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1934

PART II

VOLUME 24 NUMBER 115

Washington, Friday, June 12, 1959

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T. D. 6383]

PART 170—MISCELLANEOUS REGU- LATIONS RELATING TO LIQUOR

Interim Regulations Relating to Deal- ers in and Users of Specially De- natured Spirits and Users of Tax- Free Spirits

On April 21, 1959, a notice of proposed rule making proposing interim regulations in 26 CFR Part 170 to implement section 201 of the Excise Tax Technical Changes Act of 1958 (P.L. 85-859) with respect to the distribution and use of tax-free and specially denatured spirits was published in the FEDERAL REGISTER (24 F.R. 3068).

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments were received within the period of 30 days prescribed in the notice. However, reconsideration of the material in the notice indicates that industry and the Service will benefit by certain revisions in the regulations as published with the notice to eliminate certain corporate document requirements, to revise certain definitions, to provide information concerning the duration of permits, and to provide for withdrawals from the distilled spirits plants that will be successors to the vendors named on the current withdrawal permits. Accordingly, the regulations as so published are hereby adopted subject to the changes set forth below:

1. Section 170.222 is amended as follows:

(A) The definition of completely denatured spirits or completely denatured alcohol is amended.

(B) The definition of denatured spirits or denatured alcohol is amended.

(C) The definition of industrial use permit is amended.

(D) The definition of specially denatured spirits or specially denatured alcohol is amended.

2. Section 170.223 is amended by revising the last sentence thereof.

3. Section 170.224 is amended by revising the last sentence thereof.

4. Section 170.225 is amended as follows:

(A) Paragraph (e) is amended by substituting the word "redenaturation" for the word "denaturation."

(B) Paragraph (f) is amended by inserting the word "principal" between the words "of" and "equipment" in the first line.

(C) Delete paragraph (i) and insert in lieu thereof a new paragraph (i).

(72 Stat. 1370; 26 U.S.C. 5271)

5. Section 170.227 is amended as follows:

(A) Paragraph (a) is amended.

(B) Paragraph (c) (1) is amended by changing the period at the end of the last sentence thereof to a comma and adding the words "and the names and addresses of such persons shall be submitted to the assistant regional commissioner on his specific request."

6. Section 170.229 is amended as follows:

(A) By deleting the comma and the words "issued in accordance with the applicable provisions of Part 182 of this chapter" from the last sentence.

(B) By adding the following two new sentences at the end thereof: "Industrial use permits are continuing unless automatically terminated by the terms thereof, suspended or revoked, or voluntarily surrendered. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits."

7. Section 170.233 is amended.

8. Section 170.235 is amended by adding the following new second sentence: "Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit or the bonded dealer named therein, as the case may be."

9. Section 170.236 is amended by inserting the following immediately following the comma and preceding the word "to" in the second line: "except § 182.229 which is hereby made inapplicable,"

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10. A new undesignated centerhead reading "Termination of Permits", and new § 170.237, are added immediately following § 170.236.

11. The "authority" paragraph immediately following the table of contents of Subpart N is amended by changing the first part reference, "150.251", to 170.251.

12. Section 170.252 is amended by revising the definition of industrial use permit by deleting the words "engage in the activities described therein" and substituting therefor the words "use tax-free alcohol, as described therein".

13. Section 170.253 is amended by revising the last sentence thereof to read as follows: "Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and by the application for a withdrawal permit, Form 1450, required by § 170.264."

14. Section 170.254 is amended as follows:

(A) Paragraph (f) is amended by inserting the word "principal" between the words "of" and "equipment".

(B) Delete paragraph (i) and insert in lieu thereof a new paragraph (i).

15. Section 170.256 is amended as follows:

(A) Paragraph (a) is amended.

(B) Paragraph (c) (1) is amended by changing the period at the end of the last sentence thereof to a comma and adding the words "and the names and addresses of such persons shall be submitted to the

assistant regional commissioner on his specific request."

16. Section 170.258 is amended as follows:

(A) By deleting the words "issued in accordance with the applicable provisions of Part 182 of this chapter" from the last sentence.

(B) By adding the following two new sentences at the end thereof: "Industrial use permits are continuing unless automatically terminated by the terms thereof, suspended or revoked, or voluntarily surrendered. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits."

17. Section 170.265 is amended.

18. Section 170.267 shall be amended by adding the following new sentence: "Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit."

19. Section 170.268 is amended by inserting the following immediately following the comma and preceding the word "to" in the second line: "except § 182.229 which is hereby made inapplicable."

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly, this Treasury decision shall be effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

The purpose of this Treasury decision is to provide interim regulations implementing section 201 of the Excise Tax Technical Changes Act of 1958 (Pub. Law 85-859), with respect to the distribution and use of tax-free and specially denatured spirits.

PARAGRAPH 1. The following new subpart, Subpart M, is added to Part 170:

Subpart M—Qualification of Dealers in and Users of Specially Denatured Spirits

Sec.
170.221 Scope of subpart.

DEFINITIONS

170.222 Meaning of terms.

PERMIT TO DEAL IN OR USE SPECIALLY DENATURED SPIRITS

170.223 Application for bonded dealer permit.

170.224 Application for permit to use or recover specially denatured spirits.

170.225 Data for application, Forms 1474 and 1479.

170.226 Trade names.

170.227 Organizational documents.

Sec.
170.228 Powers of attorney.
170.229 Permits.
170.230 Bond requirements.

WITHDRAWAL PERMITS

170.231 Application for withdrawal permit by a bonded dealer.

170.232 Application for withdrawal permit by a user.

170.233 Withdrawal permits.

UNITED STATES OR GOVERNMENTAL AGENCY

170.234 Application by United States or Governmental agency for permit to use specially denatured spirits.

170.235 Permit, Form 1486.

REGULATORY REQUIREMENTS

170.236 Other provisions applicable.

TERMINATION OF PERMITS

170.237 Automatic termination.

AUTHORITY: §§ 170.221 to 170.237 issued under sec. 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 170.221 Scope of subpart.

This subpart provides interim procedures under sections 5271 and 5272, I.R.C., as amended by the Excise Tax Technical Changes Act of 1958 (Pub. Law 85-859), to permit persons to procure, deal in, or use specially denatured spirits or recover denatured spirits or articles on and after July 1, 1959.

DEFINITIONS

§ 170.222 Meaning of terms.

When used in this subpart and in forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Completely denatured spirits, completely denatured distilled spirits, or completely denatured alcohol. Denatured alcohol in which the denaturants are of such a nature that the denatured alcohol may be sold and used within certain limitations without permit and bond.

Denatured spirits, denatured distilled spirits, or denatured alcohol. Alcohol or rum to which denaturants have been added pursuant to authorized formulas.

Industrial use permit. The document issued pursuant to section 5271(a) I.R.C., authorizing the person named therein to deal in or use specially denatured spirits or to recover denatured spirits or articles, as described therein.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Recover or recovery. The salvaging after use in manufacturing of specially denatured spirits, completely denatured

spirits without all of their original denaturants, or articles containing denatured spirits if such articles made with specially denatured spirits do not contain all of their original ingredients or if such articles made with completely denatured spirits do not contain all of the original denaturants of the completely denatured spirits.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured spirits salvaged without all of the denaturants for completely denatured spirits.

Recovered denatured spirits. Denatured spirits (except completely denatured spirits with all of the original denaturants remaining therein) which have been recovered.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Specially denatured spirits, specially denatured distilled spirits, or specially denatured alcohol. Denatured alcohol or denatured rum in which denaturants are of such a nature that the product may be used in a greater number of specified arts and industries than completely denatured spirits, but, except as provided by law, may be sold, possessed, and used only pursuant to permit and bond.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw specially denatured spirits, as specified therein, from the premises of a distilled plant or bonded dealer.

PERMIT TO DEAL IN OR USE SPECIALLY DENATURED SPIRITS

§ 170.223 Application for bonded dealer permit.

Every person, except a proprietor of a distilled spirits plant who sells denatured spirits stored at his plant premises, desiring to deal in specially denatured spirits after June 30, 1959, shall make application on Form 1474 for an industrial use permit. Such application and necessary supporting documents, as required in this subpart, shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and by the application for a withdrawal permit, Form 1477, required by § 170.231.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.224 Application for permit to use specially denatured spirits or to recover denatured spirits or articles.

Every person desiring to use specially denatured spirits and every person desiring to recover denatured spirits or articles after June 30, 1959, shall make application on Form 1479 for an industrial use permit. Such application and necessary supporting documents as required

by this subpart shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and by the application for a withdrawal permit, Form 1485, required by § 170.232.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.225 Data for application, Forms 1474 and 1479.

Each application on Form 1474 or 1479 shall include, as applicable, the following information:

(a) Serial number and purpose for which filed.

(b) Name and principal business address of applicant.

(c) Location of the dealer's or user's premises, if different from the business address.

(d) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 170.227.

(e) Statement of operations showing the estimated maximum quantity of gallons of specially denatured spirits to be on hand, in transit, and unaccounted for at any one time and, in the case of users, a general statement as to the intended use to be made of the specially denatured spirits, and whether recovery, restoration, and redensation processes will be used, and, if so, the estimated number of gallons of recovered denatured spirits or recovered articles to be on hand at any one time.

(f) Listing of principal equipment to be used in manufacturing, packaging, and recovery processes, including processing tanks, storage tanks, bottling facilities, and equipment for the recovery, restoration (including the serial number, kind, capacity, name and address of owner, and intended use of distilling apparatus), and redensation of denatured spirits by users, and the size and complete description of the specially denatured spirits storeroom or storage tanks.

(g) Trade names (see § 170.226).

(h) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the applicant or to sign his name.

(i) On specific request of the assistant regional commissioner, furnish a statement showing whether any of the persons whose names and addresses are required to be furnished under the provisions of §§ 170.227(a)(2) and 170.227(c) has (1) ever been convicted of a felony or misdemeanor under Federal or State law, (2) ever been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to items (1) and (2), if such violations are not felonies), or (3) ever applied for, held, or been connected with a permit issued under Federal law to manufacture, distribute, sell, or use

spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraphs (d) through (h) of this section is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is a part of the application for an industrial use permit. The applicant shall, when so required by the assistant regional commissioner, furnish as part of his application for an industrial use permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.226 Trade names.

Where a trade name is to be used by an applicant, he shall list such trade name on Form 1474 or Form 1479, and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name.

§ 170.227 Organizational documents.

The supporting information required by paragraph (d) of § 170.225 includes, as applicable:-

(a) *Corporate documents.* (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(2) Certified list of names and addresses of officers and directors.

(3) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificates of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary and the names and addresses of such persons shall be submitted to the assistant regional commissioner on his specific request.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the name of another for him.

§ 170.228 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on his behalf. (Not required for persons whose authority is furnished in accordance with § 170.225.)

§ 170.229 Permits.

A permittee qualified to deal in or use specially denatured spirits on June 30, 1959, who has filed an application, Form 1474 or Form 1479, in accordance with § 170.223 or § 170.224, as the case may be, may continue to operate after that date under his permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Nonpermittees filing such applications shall not deal in or use specially denatured spirits until they are in possession of a valid permit on Form 1476 or Form 1481. Industrial use permits are continuing unless automatically terminated by the terms thereof, suspended or revoked, or voluntarily surrendered. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.230 Bond requirements.

Every permittee filing an application on Form 1474 or Form 1479 shall file a new bond in accordance with the procedure prescribed therefor in Part 182 of this chapter or a consent of surety, Form 1533, extending the terms of the bond in force on June 30, 1959, to cover spirits on hand, in transit, or unaccounted for on and after July 1, 1959. The Form 1533 shall properly identify the bond affected thereby and contain the following statement of purpose:

To continue in effect the terms and conditions of said bond (including all extensions or limitations of such terms and conditions previously consented to and approved) to cover specially denatured spirits on hand, in transit, or unaccounted for on and after July 1, 1959.

Every nonpermittee filing an application on Form 1474 or Form 1479 for an industrial use permit shall file bond, where required, in accordance with the procedure prescribed therefor in Part 182 of this chapter.

(72 Stat. 1372; 26 U.S.C. 5272)

WITHDRAWAL PERMITS

§ 170.231 Application for withdrawal permit by a bonded dealer.

A bonded dealer desiring to procure specially denatured spirits, on or after July 1, 1959, shall file application on Form 1477 with the assistant regional commissioner for a withdrawal permit. The application shall show the date and the estimated quantity of specially denatured spirits necessary to carry on the business during a period of one year.

§ 170.232 Application for withdrawal permit by a user.

A user desiring to procure specially denatured spirits on or after July 1, 1959, shall file an application on Form 1485 with the assistant regional commissioner for a withdrawal permit. The application shall show the total quantity of each formula of specially denatured spirits (by kind) to be withdrawn during a period of one year, and the total quantity of each such formula it is desired to withdraw during any one calendar month. The total quantity to be withdrawn during a year shall not be more than is sufficient to meet the bona fide business needs of the applicant. The total quantity of any formula to be withdrawn during any calendar month should not be more than one-twelfth of the annual requirements. Where the applicant desires to withdraw more than one-twelfth of his annual requirements during any month, he should state his needs and furnish sufficient information for the assistant regional commissioner to determine whether such withdrawals should be authorized. A permittee may, if he so desires, file applications for more than one withdrawal permit and have his monthly and annual total withdrawals divided among such permits. The assistant regional commissioner may approve or disapprove the application in whole or in part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.233 Withdrawal permits.

A bonded dealer or user who has a valid withdrawal permit, Form 1477 or Form 1485, as the case may be, on June 30, 1959, and who has filed application in accordance with § 170.231 or § 170.232, may continue to withdraw specially denatured spirits after that date under his permit in force on June 30, 1959, until final action is taken on such application. Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit or the bonded dealer specified therein, as the case may be. Unless the bonded dealer or user has filed application on Form 1477 or Form 1485, as the case may be, prior to July 1, 1959, he shall not make any further withdrawals on or after such date and shall return his withdrawal permit to the assistant regional commissioner for cancellation. If applications for withdrawal permits or applications for amendment of withdrawal permits are approved, the assistant regional commissioner shall issue a withdrawal permit in accordance with the applicable provisions of Part 182 of this chapter, except that any withdrawal permit issued to be effective on or after July 1, 1959, shall expire on October 31, 1960. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits.

(72 Stat. 1370; 26 U.S.C. 5271)

UNITED STATES OR GOVERNMENTAL AGENCY

§ 170.234 Application by United States or governmental agency for permit to procure specially denatured spirits.

Where specially denatured spirits are to be withdrawn by the United States

or any governmental agency thereof on and after July 1, 1959, an application shall be filed on Form 1486 for a permit. Form 1486 shall be executed in duplicate, signed by the head of the department or independent bureau or agency to which such specially denatured spirits are to be shipped, or by some person duly authorized by such head of a department or independent bureau or agency and forwarded to the Director. Evidence of authority to sign for the head of a department or independent bureau or agency shall be furnished the Director. No bond is required to be filed.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.235 Permit, Form 1486.

A Governmental agency having a valid permit, Form 1486, on June 30, 1959, and which has filed an application in accordance with § 170.234 may continue to withdraw specially denatured spirits after that date under its permit in force on June 30, 1959, until final action is taken by the Director on such application. Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit or the bonded dealer named therein, as the case may be. Governmental agencies which do not have a valid permit, Form 1486, on June 30, 1959, may not withdraw specially denatured spirits until a permit has been issued to them in accordance with the applicable provisions of Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

REGULATORY REQUIREMENTS

§ 170.236 Other provisions applicable.

All of the provisions of Parts 182 and 216 of this chapter, except §§ 182.173 and 182.229 which are hereby made inapplicable, to the extent that they are not inconsistent with or superseded by the provisions of this subpart, with respect to the withdrawal, storage, use, and disposition of specially denatured spirits, the recovery of denatured spirits or articles, and the records and reports required with respect thereto, are hereby made applicable to transactions on and after July 1, 1959.

TERMINATION OF PERMITS

§ 170.237 Automatic termination.

(a) *Permits not transferable.* Permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, the permit shall thereupon automatically terminate.

(b) *Corporations.* In the case of a corporation holding permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law, or in any other manner, the permittee shall, within 10 days of such change, give written notice thereof, executed under the penalties of perjury, to the assistant regional commissioner; such permit may remain in effect with respect to the operation covered thereby until the expiration of 30 days after such change, where-

upon such permit shall automatically terminate: *Provided*, That if within such 30-day period an application for a new permit covering such operation is made, then the outstanding permit may remain in effect with respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding permit shall thereupon automatically terminate.

PAR. 2. The following new subpart, Subpart N, is added:

Subpart N—Qualification of Users of Tax-Free Spirits

Sec.

170.251 Scope of subpart.

DEFINITIONS

170.252 Meaning of terms.

PERMIT TO USE TAX-FREE SPIRITS

170.253 Application for permit to use tax-free spirits.

170.254 Data for application.

170.255 Trade names.

170.256 Organizational documents.

170.257 Powers of attorney.

170.258 Permit to use tax-free spirits.

170.259 Bond requirements.

AUTHORIZED USES OF TAX-FREE SPIRITS

170.260 General.

170.261 Hospitals, blood banks, and sanitariums.

170.262 Educational organizations exempt from Federal income tax.

170.263 Pathological laboratories.

WITHDRAWALS PERMITS

170.264 Application for withdrawal permit.

170.265 Withdrawal permit.

UNITED STATES OR GOVERNMENTAL AGENCY

170.266 Application by United States or Governmental agency for permit to use tax-free spirits.

170.267 Permit, Form 1444.

REGULATORY REQUIREMENTS

170.268 Other provisions applicable.

* *AUTHORITY:* §§ 170.251 to 170.268 issued under sec. 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 170.251 Scope of subpart.

This subpart provides interim procedures under sections 5271 and 5272, I.R.C., as amended by the Excise Tax Technical Changes Act of 1958 (Pub. Law 85-859), to permit persons to procure or use tax-free spirits on and after July 1, 1959, and to provide additional uses of tax-free spirits authorized by section 5214(a)(3), I.R.C., as amended by such act.

DEFINITIONS

§ 170.252 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Industrial use permit. The document issued pursuant to section 5271(a), I.R.C. authorizing the person named therein to use tax-free alcohol, as described therein.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Spirits or distilled spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine, having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions thereof, from whatever source or by whatever process produced.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C. authorizing the person named therein to withdraw tax-free spirits, as specified therein, from the premises of a distilled spirits plant.

PERMIT TO USE TAX-FREE SPIRITS

§ 170.253 Application for permit to use tax-free spirits.

Every person desiring to use tax-free spirits on and after July 1, 1959, shall make application on Form 2600 for an industrial use permit. Such application and necessary supporting documents as required by this subpart shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and by the application for a withdrawal permit, Form 1450, required by § 170.264.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.254 Data for application.

Each application on Form 2600 shall include the following information:

(a) Serial number and purpose for which filed.

(b) Name and principal business address of applicant.

(c) Location, or locations, where tax-free spirits are to be used, if different from the business address.

(d) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 170.256.

(e) Statement showing the specific manner in which, or purposes for which, tax-free spirits will be used and the estimated maximum quantity, in proof gallons, which will be on hand, in transit, and unaccounted for at any one time.

(f) Listing of the size, description, and location of storage facilities and of principal equipment for the recovery and restoration of spirits (including the serial number, kind, capacity, name and address of owner, and intended use of distilling apparatus).

(g) Trade names (see § 170.255).

(h) List of the offices, the incumbents of which are authorized by the articles of incorporation, the bylaws, or the board of directors to act on behalf of the applicant or to sign his name.

(i) On specific request of the assistant regional commissioner, furnish a statement showing whether any of the persons whose names and addresses are required to be furnished under the provisions of §§ 170.256(a)(2) and 170.256(c) has—(1) ever been convicted of a felony or misdemeanor under Federal or State law relating to intoxicating liquors, (2) ever been arrested or charged with any violation of State or Federal law relating to intoxicating liquors, or (3) ever applied for, held, or been connected with a permit issued under Federal law, to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraphs (d) through (h) is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is a part of the application for an industrial use permit. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for an industrial use permit such additional information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

§ 170.255 Trade names.

Where a trade name is to be used by an applicant or permittee, he shall list such trade name on Form 2600 and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name.

§ 170.256 Organizational documents.

The supporting information required by paragraph (d) of § 170.254 includes, as applicable:

(a) **Corporate documents.** (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated).

(2) Certified list of names and addresses of officers and directors.

(3) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) **Articles of partnership.** True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) **Statement of interest.** (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons shall be submitted to the assistant regional commissioner on his specific request.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the name of another for him.

§ 170.257 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on his behalf. (Not required for the persons whose authority is furnished in accordance with § 170.254.)

§ 170.258 Permit to use tax-free spirits.

A permittee qualified on June 30, 1959, who files an application, Form 2600, in accordance with § 170.253 may continue to operate after that date under his permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Non-permittees filing such applications shall not use tax-free spirits until they are in possession of a valid permit on Form 1447. Industrial use permits are continuing unless automatically terminated by the terms thereof, suspended or revoked, or voluntarily surrendered. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.259 Bond requirements.

Every permittee filing an application on Form 2600 shall file a new bond in accordance with the procedure prescribed therefor in Part 182 of this chapter or a consent of surety, Form 1533, extending the terms of the bond in force on June 30, 1959, to cover spirits on hand, in transit, or unaccounted for on and after July 1, 1959. The Form 1533 shall properly identify the bond affected thereby and contain the following statement of purpose:

To continue in effect the terms and conditions of said bond (including all extensions or limitations of such terms and conditions previously consented to and approved) to cover tax-free spirits on hand, in transit, or unaccounted for on and after July 1, 1959.

Every nonpermittee filing an application on Form 2600 for an industrial use permit shall file bond, where required, in accordance with the procedure pre-

scribed therefor in Part 182 of this chapter.

(72 Stat. 1372; 26 U.S.C. 5272)

AUTHORIZED USES OF TAX-FREE SPIRITS **§ 170.260 General.**

In addition to the purposes provided for in Part 182 of this chapter, spirits may be withdrawn free of tax for the purposes provided for in §§ 170.261 to 170.263.

§ 170.261 Hospitals, blood banks, and sanitariums.

Tax-free spirits may be withdrawn by blood banks for use therein. The use of tax-free spirits at hospitals, blood banks, and sanitariums includes making any analysis or test at such hospital, blood bank, or sanitarium. Medicines made with tax-free spirits may not be sold, except that a separate charge may be made for such medicines compounded on the hospital premises for use of patients on the premises. The restrictions as to sale or removal of tax-free spirits or resulting products from the permit premises, contained in Part 182 of this chapter, shall apply to hospitals, blood banks, and sanitariums.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 170.262 Educational organizations exempt from Federal income tax.

Tax-free spirits may be withdrawn for the use of any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on and which is exempt from Federal income tax under section 501(a), I.R.C. Tax-free spirits withdrawn by such educational organizations shall be used only for scientific, medicinal, and mechanical purposes. The restrictions as to sale or removal of tax-free spirits or resulting products from the permit premises contained in Part 182 of this chapter shall apply to educational organizations under this section.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 170.263 Pathological laboratories.

Pathological laboratories, other than such laboratories which are a part of a hospital or sanitarium, may withdraw tax-free spirits only if engaged exclusively in making analyses or tests for hospitals or sanitariums. Such independent pathological laboratories may not obtain tax-free spirits if tests or analyses are made for doctors or dentists in their private practice or for any other purpose than as provided in this section. The restrictions as to sale or removal of tax-free spirits or resulting products from the permit premises contained in Part 182 of this chapter shall apply to pathological laboratories under this section.

WITHDRAWAL PERMITS

§ 170.264 Application for withdrawal permit.

Every person desiring to withdraw tax-free spirits on or after July 1, 1959, shall file an application on Form 1450

with the assistant regional commissioner for a withdrawal permit. The application, Form 1450, shall show the total quantity, in proof gallons, of tax-free spirits to be withdrawn during a period of one year, and the total quantity, in proof gallons, to be withdrawn during any one calendar month. The total quantity to be withdrawn during a year shall not be more than is sufficient to meet the bona fide needs of the applicant. The total quantity to be withdrawn during any calendar month should not be more than one-twelfth of the annual requirements. Where the applicant desires to withdraw more than one-twelfth of his annual requirements during any month, he shall state his needs and furnish sufficient information for the assistant regional commissioner to determine whether such withdrawals should be authorized. An applicant or permittee may, if he so desires, file application for more than one withdrawal permit and have his monthly and annual total withdrawals divided among such permits. The assistant regional commissioner may approve or disapprove the application in whole or in part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.265 Withdrawal permits.

A permittee holding a withdrawal permit on June 30, 1959, who has filed an application, Form 1450, in accordance with § 170.264 may continue to withdraw tax-free spirits after that date under his withdrawal permit in force on June 30, 1959, until final action is taken by the assistant regional commissioner on such application. Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit. Unless an application is filed as provided in this subpart, no withdrawals shall be made after June 30, 1959, by the permittee and his withdrawal permit shall be returned to the assistant regional commissioner for cancellation. If applications for withdrawal permits or applications for amendment of withdrawal permits are approved, the assistant regional commissioner shall issue a withdrawal permit in accordance with the applicable provisions of Part 182 of this chapter, except that any withdrawal permit issued to be effective on or after July 1, 1959, shall expire on April 30, 1961. The provisions of § 170.237 shall be deemed to be a part of the terms and conditions of all such permits.

(72 Stat. 1370; 26 U.S.C. 5271)

UNITED STATES OR GOVERNMENTAL AGENCY

§ 170.266 Application by United States or Governmental agency for permit to procure tax-free spirits.

Where tax-free spirits are to be withdrawn by the United States or any Governmental agency thereof after June 30, 1959, an application shall be filed on Form 1444 for a withdrawal permit. Form 1444 shall be executed in duplicate, signed by the head of the department or independent bureau or agency to which such tax-free spirits are to be shipped, or by some person duly authorized by such head of a department or independent bu-

reau or agency and shall be forwarded to the Director. Evidence of authority to sign for the head of a department or independent bureau or agency shall be furnished the Director. No bond is required to be filed.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 170.267 Permit, Form 1444.

A Governmental agency having a valid permit, Form 1444, on June 30, 1959, and which has filed an application in accordance with § 170.266 may continue to withdraw tax-free spirits after that date under its permit in force on June 30, 1959, until final action is taken by the Director on such application. Such withdrawals shall be from the distilled spirits plant which is successor to the vendor plant named in the withdrawal permit. Governmental agencies which do not have a valid permit, Form 1444, on June 30, may not withdraw tax-free spirits until a permit has been issued to them in accordance with the applicable procedure prescribed in Part 182 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

REGULATORY REQUIREMENTS

§ 170.268 Other provisions applicable.

All of the provisions of Part 182 of this chapter, except §§ 182.166 and 182.229 which are hereby made inapplicable, to the extent that they are not inconsistent with or superseded by the provisions of this subpart, with respect to the withdrawal, storage, use, and disposition of tax-free spirits (alcohol), and the records and reports in connection therewith, are hereby made applicable to such transactions on and after July 1, 1959.

[F.R. Doc. 59-4873; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6385]

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendments of 26 CFR Part 197 was published in the FEDERAL REGISTER (24 F.R. 3072). No objection to the proposed amendments having been received during the 30-day period prescribed in the notice, the regulations as so published are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003).

Accordingly this Treasury decision shall be effective on July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

The purpose of this Treasury decision is to amend 26 CFR Part 197 in order that the provisions of Public Law 85-859 relating thereto may be made effective.

These changes, in general, provide for the allowance of drawback of tax on imported alcohol withdrawn from the bonded premises of a distilled spirits plant under section 5131, I.R.C.; the revision of the definition of distilled spirits to conform to the provisions of section 5002, I.R.C.; the determination of special tax on the basis of "use" rather than "withdrawals"; and the provision that taxes may be paid or "determined".

Pursuant to the above, it is proposed to amend 26 CFR Part 197 as follows:

§ 197.1 [Amendment]

PARAGRAPH 1. Section 197.1 is amended by striking "domestic" in the second sentence.

PAR. 2. Section 197.10 is renumbered § 197.9 and is amended to read:

§ 197.9 Distilled spirits.

Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, and vodka, produced at an industrial alcohol plant, registered distillery, or fruit distillery (operated, respectively, under Part 182, 220, or 221, of this chapter) or withdrawn on or after July 1, 1959, from the bonded premises of a distilled spirits plant operated under Part 201 of this chapter.

§ 197.10 [Renumbered]

PAR. 3. Section 197.9 is renumbered § 197.10.

PAR. 4. Section 197.11 is amended to read:

§ 197.11 Filed.

Subject to the provisions of §§ 301.7502 through 301.7503-1 of this chapter, a claim for drawback shall be deemed to have been "filed" when it is delivered to the office of the proper assistant regional commissioner, and by that office received.

§ 197.17 [Amendment]

PAR. 5. Section 197.17 is amended by striking "withdrawals" where it appears and inserting "use" in lieu thereof.

§ 197.25 [Amendment]

PAR. 6. Section 197.25 is amended by striking "withdrawals" where it appears and inserting "use" in lieu thereof.

§ 197.109 [Amendment]

PAR. 7. Section 197.109(b) is amended by inserting "or determined" after

"paid" and by striking the period after "plant" and inserting in lieu thereof "or were withdrawn from the bonded premises of a distilled spirits plant".

PAR. 8. Section 197.117 is amended to read:

§ 197.117 Account of distilled spirits recovered in the manufacture of products eligible for drawback.

Each claim will be accompanied by a summary statement showing in proof gallons the quantity of all recovered distilled spirits on hand at the beginning of the period, quantity in process beginning of the period, quantity recovered during the period, quantity used not subject to drawback, quantity in process at the end of the period, and the quantity remaining on hand at the end of the period. Any discrepancy between the amount of recovered distilled spirits on hand at the end of the period as disclosed by actual inventory and the amount shown by the manufacturer's records must be reported in the summary with an explanation of the cause thereof. Distilled spirits recovered from dregs or marc of percolation or extraction of products eligible for drawback may be reused only in the manufacture of nonbeverage products. Such recovered distilled spirits are not eligible for drawback and shall not be used in the manufacture of intermediate products.

(72 Stat. 1330; 26 U.S.C. 5025)

[F.R. Doc. 59-4875; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6386]

PART 198—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to amendment of 26 CFR Part 198 was published in the FEDERAL REGISTER (24 F.R. 3073).

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments having been received within the 30-day period prescribed in the notice, the amendments to 26 CFR Part 198, as published in said notice, are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in the law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C.

1003). Accordingly this Treasury decision shall be effective on July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

In order to implement certain provisions of the Internal Revenue Code of 1954, as amended by Public Law 85-859, as they relate to volatile fruit-flavor concentrates, 26 CFR Part 198 is amended as follows:

PARAGRAPH 1. Section 198.25, and the headnote thereto, is amended to read:

§ 198.25 Restrictions as to location.

A concentrate plant shall not be established in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or in any building or on any premises where the effective administration of this part will be hindered, or (except as provided in § 198.26) on premises where any other business is carried on.

PAR. 2. Section 198.26 is amended to read:

§ 198.26 Use of premises.

The premises and equipment of a concentrate plant shall be used only for the business stated in the approved application for registration. Where the proprietor desires to use such premises and equipment, or any portion thereof, for any other business other than that of a manufacturer of concentrates (and activities incident thereto), he shall submit to the Director, through the assistant regional commissioner, a written application, in triplicate, setting forth the type of business he desires to conduct, the buildings and equipment he proposes to use, and the relationship, if any, of such business to concentrate plant operations. The application shall not be approved until the Director has determined that the carrying on of such business will not jeopardize the revenue, hinder effective administration of this part, or be contrary to law. Such other business may not be carried on until the application has been approved by the assistant regional commissioner.

§§ 198.10, 198.55, 198.56, 198.59-198.61, 198.66, 198.95, 198.111, 198.114, 198.127, 198.128, 198.135, 198.136, 198.141, 198.142, 198.144, 198.147, 198.170 [Amendment]

PAR. 3. Wherever the words "notice" or "notices" appear in §§ 198.10, 198.55, 198.56, 198.59, 198.60, 198.61, 198.66, 198.95, 198.111, 198.114, 198.127, 198.128, 198.135, 198.136, 198.141, 198.142, 198.144, 198.147, and 198.170, including the headnotes of such sections, such words are amended to read "application" or "applications", as applicable.

§ 198.110 [Amendment]

PAR. 4. Section 198.110 is amended by striking the phrase, "written notice must be given to the assistant regional com-

missioner, and in the form prescribed in this subpart", and inserting in lieu thereof the phrase, "the proprietor shall comply with the requirements of this subpart."

PAR. 5. Section 198.165, and the headnote thereto, is amended to read:

§ 198.165 Suspension of business.

Any proprietor desiring to suspend operations for an indefinite period or for a definite period exceeding 15 days, shall give written notice to the assistant regional commissioner stating when operations are to be suspended. When operations are to be resumed the proprietor shall give written notice to the assistant regional commissioner stating when operations will commence.

[F.R. Doc. 59-4876; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6389]

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendment of the regulations in 26 CFR Part 200 was published in the *FEDERAL REGISTER* (24 F.R. 3073). The amendments would conform the regulations to the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275), and to technical changes made in other regulations pursuant to such act.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments were received within the period of 30 days prescribed in the notice. However, since under section 5274 of the Internal Revenue Code, as amended, the subpoena provisions of existing law are applicable to tobacco permit proceedings (as well as alcohol permit proceedings), § 200.126 should be amended. As a result, the regulations as so published are hereby adopted, with the additional change set forth below:

1. Paragraph 20 is added to the notice amending § 200.126.

Because this Treasury decision implements Public Law 85-859, the applicable provisions of which are effective July 1, 1959, it is found that it is impracticable to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall become effective July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

§ 200.1 [Amendment]

PARAGRAPH 1. Section 200.1 is amended by striking from the first sentence the word "basic" appearing immediately pre-

ceding the words "permits under the Internal Revenue Code".

PAR. 2. Section 200.5 is amended to read as follows:

§ 200.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated which are in the same general class.

PAR. 3. A new section, designated § 200.9a and reading as follows, is inserted immediately following § 200.9:

§ 200.9a CFR.

"CFR" shall mean the Code of Federal Regulations.

§ 200.12 [Amendment]

PAR. 4. Section 200.12 is amended by striking the phrase "Alcohol and Tobacco Tax Division", immediately following the word "Director" in the headnote and the first time that it appears in the text.

PAR. 5. Section 200.17 is amended to read as follows:

§ 200.17 Permit.

(a) *Basic permit.* "Basic permit" shall mean the document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

(b) *Container permit.* "Container permit" shall mean the document issued pursuant to section 5301, I.R.C., authorizing the person named therein to engage in a designated business or activity described therein.

(c) *Industrial use permit.* "Industrial use permit" shall mean a document issued pursuant to section 5271(a), I.R.C., authorizing a person named therein to use distilled spirits free of tax, deal in or use specially denatured spirits free of tax, or recover specially or completely denatured spirits, as described therein.

(d) *Operating permit.* "Operating permit" shall mean the document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business described therein.

(e) *Tobacco permit.* "Tobacco permit" shall mean the document issued pursuant to section 5713(a), I.R.C., authorizing the person named therein to engage in the business described therein.

(f) *Withdrawal permit.* "Withdrawal permit" shall mean the document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free spirits or specially denatured spirits, as specified therein.

PAR. 6. Section 200.19 is amended to read as follows:

§ 200.19 Person.

"Person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

PAR. 7. A new section, designated § 200.23 and reading as follows, is added immediately following § 200.22:

§ 200.23 U.S.C.

"U.S.C." shall mean the United States Code.

§ 200.45 [Amendment]

PAR. 8. Section 200.45 is amended by striking the headnote and inserting a new headnote reading "basic permits", and by striking from the text the letters "FAA" immediately following the words "any of the conditions of his", and inserting in lieu thereof the word "basic".

PAR. 9. Section 200.48 is amended to read as follows:

§ 200.48 Operating, industrial use, and withdrawal permits.

Whenever the assistant regional commissioner has reason to believe that any person who has an operating, industrial use, or withdrawal permit—

(a) Has not in good faith complied with the provisions of chapter 51, I.R.C., or regulations issued thereunder; or

(b) Has violated the conditions of such permit; or

(c) Has made any false statement as to any material fact in his application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense; or

(f) Is (in the case of any person who has a permit to procure or use distilled spirits free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale, or to procure, deal in, or use specially denatured distilled spirits) by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(g) Has, in the case of any person who has a permit to procure, deal in, or use specially denatured distilled spirits, manufactured articles which do not correspond to the descriptions and limitation prescribed by law and regulations; or

(h) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

he may issue a citation for the revocation or suspension of such permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 200.49 [Amendment]

PAR. 10. Section 200.49 is amended by striking the headnote and inserting in lieu thereof the words "Applications for basic and container permits", and by inserting, immediately following the words "(including a renewal application) for a", the words "basic or container".

PAR. 11. Two new sections, designated §§ 200.49a and 200.49b and reading as follows, are added immediately following section 200.49:

§ 200.49a Applications for operating, industrial use, and withdrawal permits.

If, on examination of an application (including a renewal application) for an operating, industrial use, or withdrawal permit, the assistant regional commissioner has reason to believe—

(a) In case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or

(b) The applicant (including in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 51, I.R.C., or regulations issued thereunder; or

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(d) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue; he may issue a citation for the contemplated disapproval of the application. (72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 200.49b Applications for tobacco permits.

If, on examination of an application for a tobacco permit provided for in section 5713, I.R.C., the assistant regional commissioner has reason to believe—

(a) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner), is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 52, I.R.C., or has failed to disclose any material information required or made any material false statement in the application; he may issue a citation for the contemplated disapproval of the application. (72 Stat. 1421; 26 U.S.C. 5712)

(72 Stat. 1421; 26 U.S.C. 5712)

§ 200.55 [Amendment]

PAR. 12. The first sentence of § 200.55 is amended by striking all of paragraph (c) therefrom and inserting in lieu thereof the following, "(c) the nature of the hearing. Such citation will also specify the time and place set for the hearing or give notice that such time and place will be set by a separate order which shall be issued by the assistant regional commissioner within 30 days of the date of issuance of the citation".

§ 200.56 [Amendment]

PAR. 13. Section 200.56 is amended:

(A) By striking paragraph (a) in its entirety and by renumbering paragraphs (b) and (c) as paragraphs (a) and (b), respectively; and

(B) By striking the word "other" from the newly designated paragraph (a).

§ 200.57 [Amendment]

PAR. 14. The first sentence of § 200.57 is amended by striking "1430", therefrom.

PAR. 15. Section 200.58 is amended to read as follows:

§ 200.58 Designated place of hearing.

The designated place of hearing shall be such as meets the convenience and necessity of the parties.

§ 200.71 [Amendment]

PAR. 16. Section 200.71 is amended by striking the word "basic" immediately following the words "for the suspension, revocation or annulment of a".

§ 200.110 [Amendment]

PAR. 17. Section 200.110 is amended by striking from the first sentence thereof the parenthetical phrase "(and, in the case of alcohol permits, shall)", and by striking the word "basic" from the last sentence.

PAR. 18. Section 200.117 is amended to read as follows:

§ 200.117 Permit privileges, exceptions.

Pending final determination of any timely appeal in revocation, suspension, annulment, or renewal application proceeding to the Director, the permit involved shall continue in force and effect except that, in the case of industrial use permits, any time after a citation has been issued withdrawals of tax-free spirits or specially denatured spirits by such permittee may, in the discretion of the assistant regional commissioner or Director, be restricted to the quantity which, together with the quantity then on hand, is necessary to carry on legitimate operations under such permit. The assistant regional commissioner may, in restricting the permittee to his legitimate needs, refuse to issue any withdrawal permit.

§ 200.119 [Amendment]

PAR. 19. The headnote of § 200.119 is amended by striking the letters "FAA" and inserting in lieu thereof the word "basic".

§ 200.126 [Amendment]

PAR. 20. Section 200.126 is amended as follows:

(A) By deleting the first four words of the first sentence, which read "Where authorized by law," and by changing the next word from "upon" to "On", so that the sentence will begin with "On written application by a party to a proceeding"; and

(B) By adding a citation at the end of the section to read:

(49 Stat. 977, 72 Stat. 1372; 27 U.S.C. 202, 26 U.S.C. 5274)

[F.R. Doc. 59-4879; Filed, June 11, 1959; 8:45 a.m.]

PART 201—DISTILLED SPIRITS PLANTS

On April 21, 1959, a notice of proposed rule making regarding the regulations to be issued as Part 201 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (24 F.R.

3075). The proposed regulation would implement certain of the provisions of chapter 51 of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1313) which are applicable to distilled spirits plants.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. After consideration of all such relevant matter as was presented by interested parties regarding the rules proposed, and in order to make certain clarifying, liberalizing, and editorial changes, and to make conforming changes resulting from the changeover to the collection of distilled spirits excise taxes on the basis of a return, the regulations as so published are hereby adopted subject to the changes set forth below:

1. Section 201.11 is changed:

(A) By rewording the definition of "Plant or distilled spirits plant".

(B) By inserting after the definition of "Taxpaid spirits" the following new definition for "Taxpaid wines".

2. Section 201.29 is changed by inserting before the last sentence a new sentence to read "The adding of denaturants to spirits under this chapter does not constitute rectification."

3. Section 201.38 is changed by inserting in the second sentence, after the word "paid", the words "or determined".

4. Section 201.42 is changed:

(A) By striking in the last sentence of paragraph (a) the word "due" the second time it appears, and by inserting after the word "paid", the words "or determined"; and

(B) By inserting in paragraph (b), after the words "tax previously paid", the words "or determined".

5. Section 201.44 is changed by inserting in the first sentence, after the word "payment", the words "or determination".

6. Section 201.45 is changed:

(A) By inserting in the first sentence of paragraph (b), after the word "payment", the words "or determination";

(B) By renumbering paragraphs (b) (3), (4), and (5) as paragraphs (b) (4), (5), and (6), respectively;

(C) By inserting a new paragraph (b) (3).

(D) By rewording the newly designated paragraph (b) (4).

(E) By inserting in the newly designated paragraph (b) (6), after the word "payment", the words "or determination";

(F) By renumbering paragraphs (c) (1), (2), and (3) as paragraphs (c) (2), (3), and (4), respectively;

(G) By inserting a new paragraph (c) (1).

(H) By rewording the newly designated paragraph (c) (2).

(I) By inserting in the newly designated paragraph (c) (4), after the word "payment", the words "or determination";

(J) By striking paragraph (d) (1) in its entirety and by renumbering paragraphs (d) (2), (3), and (4) as paragraphs (d) (1), (2), and (3), respectively;

(K) By inserting in the newly designated paragraph (d) (1), after the word "payment", the words "or determination"; and

(L) By inserting in the newly designated paragraph (d) (3), after the phrase "covered by the claim," the phrase "the quantity of spirits so lost,".

7. Section 201.46 is renumbered as § 201.47 and there is inserted a new § 201.46.

8. A new section, designated § 201.48, is added, immediately following newly designated § 201.47.

9. Section 201.63 is changed by striking in the last sentence the word "part", and inserting in lieu thereof the word "chapter".

10. Section 201.73 is changed by striking in the first sentence the words "made or fermented on such premises".

11. Section 201.82 is changed by striking in the last sentence the section reference "§ 201.76", and inserting in lieu thereof the words "this part".

12. Section 201.86 is changed by rewording the first sentence to read "Where this part requires direct supervision of an operation, the proprietor may conduct such operation at any time the assigned officer is on the premises: *Provided*, That such officer has been informed of the operation and has not advised the proprietor that the operation must be deferred in order that it may be conducted in his immediate presence."

13. Section 201.87 is changed by striking the period at the end of the first sentence and adding the following phrase "or the premises of an adjacent bonded wine cellar."

14. Section 201.92 is changed by striking from the third sentence the words "the proprietor under the direct supervision of".

15. Section 201.93 is changed by adding after the first sentence a new sentence to read "Such preparation shall include the furnishing of necessary wire, straps, and covers and affixing of the same."

16. Section 201.112 is changed by striking in the last sentence the word "specific", and inserting in lieu thereof the word "limited".

17. Section 201.120 is changed by striking the period and adding the following phrase "or by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor."

18. Section 201.132 is changed:

(A) By inserting in the next to last sentence, after the words "by paragraph (c)", the words "or paragraph (g)"; and

(B) By inserting in the next to last sentence, after the words "such information", the phrase "if accurate and complete,".

19. Section 201.137 is changed:

(A) By striking in paragraph (f) the word "State", and inserting in lieu thereof the words "On specific request of the assistant regional commissioner, furnish a statement showing";

(B) By inserting in the parentheses in paragraph (f) (2), after the words "need not be reported", the phrase "as to subparagraphs (1) and (2)"; and

(C) By striking from the next to last sentence the phrase "or (f) (3)".

20. Section 201.142 is revised.

21. Section 201.144 is changed:

(A) By striking the phrase "If, after notice and hearing, the assistant regional commissioner finds", and inserting in lieu thereof the phrase "Whenever the assistant regional commissioner has reason to believe"; and

(B) By striking the phrase "such permit may, in whole or in part, be revoked, or be suspended for such period as the assistant regional commissioner deems proper."; and inserting in lieu thereof the phrase "the assistant regional commissioner may institute proceedings for the revocation or suspension of such permit in accordance with the procedures set forth in Part 200 of this chapter."

22. Section 201.145 is changed by striking the words "and for", and inserting in lieu thereof the words "and in connection with".

23. Section 201.147 is changed by adding at the end of paragraph (f) a parenthetical phrase to read "(The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)"

24. Section 201.148 is changed by striking the period in the last sentence of paragraph (c) (1) and adding the following phrase "and the names thereof need be furnished to the assistant regional commissioner only at his request."

25. Section 201.154 is changed by striking the word "quadruplicate", and inserting in lieu thereof the word "triplicate".

26. Section 201.155 is changed by striking the figure " $\frac{3}{100}$ ", and inserting in lieu thereof the figure " $\frac{3}{100}$ ".

27. Section 201.156 is changed:

(A) By rewording the third sentence, which begins "The plat shall also", to read "The plat shall show (a) all buildings on the plant premises, (b) all basic equipment (including tanks and stills) not located in buildings, and (c) all driveways, public thoroughfares, and railroad rights-of-way contiguous to, connecting, or separating, the plant premises."; and

(B) By striking in the fifth sentence, which begins "Each pipeline", the period and adding the following proviso "Provided, That, in lieu of such colors, the pipelines may be identified by symbols which permit ready identification of their uses."

28. Section 201.174 is changed:

(A) By striking in the first sentence of paragraph (a) the phrase "A plant or any part thereof", and inserting in lieu thereof the phrase "A plant, or any part thereof which is suitable for qualification as a separate plant.";

(B) By revising paragraph (b).

(C) By striking in the proviso of the first sentence of paragraph (d) the phrase "where the outgoing proprietor has executed", and inserting in lieu thereof the phrase "but in such case the outgoing proprietor shall (unless qualification bond is not required for the plant) execute"; and

(D) By rewording the last sentence of paragraph (d) to read "Products subject

to tax under the provisions of sections 5021 and 5022, I.R.C., (including partially rectified products) which are being transferred to a successor shall be tax-paid by the outgoing proprietor."

29. Section 201.191 is changed by striking in the third sentence the phrase "Each bond shall be accompanied by", and inserting in lieu thereof the phrase "The assistant regional commissioner may require, in connection with any bond on Form 2601,".

30. Section 201.206 is changed by adding after the last sentence a new sentence to read "Where bond on Form 2601 covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation."

31. Section 201.208 is changed by inserting after paragraph (b) (2) in the chart a new subparagraph (3).

32. Section 201.214 is changed by striking the word "or" immediately preceding paragraph (d) and striking paragraph (d), and inserting in lieu thereof the two paragraphs, (d) and (e).

33. Section 201.482 is changed:

(A) By striking in the first sentence the phrase "Where spirits withdrawn from customs or internal revenue bond on payment of tax for rectification", and inserting in lieu thereof the phrase "Where spirits withdrawn from internal revenue bond on payment or determination of tax, or from customs bond on payment of tax, for rectification"; and

(B) By striking in the last sentence the words "proprietor's samples", and inserting in lieu thereof the words "proprietor samples or Government samples".

34. Section 201.483 is changed:

(A) By inserting in the first sentence, after the word "payment", the words "or determination"; and

(B) By striking from the first sentence the words "customs or internal revenue".

35. Section 201.486 is changed:

(A) By striking the words "bonded premises or customs custody", and inserting in lieu thereof the word "bond"; and

(B) By inserting, after the word "payment", the words "or determination".

36. Section 201.487 is changed by striking in the first sentence the words "customs custody or bonded premises on payment", and inserting in lieu thereof the words "bond on payment or determination".

37. Section 201.489 is changed by striking in the last sentence the words "bonded premises on payment", and inserting in lieu thereof the words "bond on payment or determination".

38. Section 201.493 is changed by inserting in the first two sentences, after the word "payment" (once in each sentence), the words "or determination".

39. Section 201.494 is revised.

40. Section 201.573 is changed:

(A) By striking from the second sentence the words "or certificates"; and

(B) By striking from the next to last sentence the words "or certificates", and striking the period and adding the following phrase "and shall retain the remaining copy for his files."

41. Section 201.574 is revised.

42. Section 201.575 is changed:

(A) By striking the period in the first sentence and adding the following phrase and sentence ", or to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Where the spirits (including denatured spirits) are returned to bonded premises for storage, without distillation, the proprietor shall execute a consent of surety on Form 1533 to extend the terms of Form 2601 to cover the return and storage of such spirits."; and

(B) By inserting in the next to last sentence, after the word "distillation", the parenthetical phrase "(if any)".

43. Section 201.578 is changed:

(A) By adding after the first sentence a new sentence to read "In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained."; and

(B) By striking the period in the third (formerly the second) sentence and adding the phrase "unless the spirits are returned before the withdrawal forms have been filed with the customs officials."; and

(C) By adding after the last sentence a new sentence to read "When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the assigned officer who shall cancel and date the withdrawal forms and affix copies of the approved application thereto."

44. Section 201.579 is changed:

(A) By rewording the first sentence to read "The receipt and deposit of the returned spirits shall be under the direct supervision of the assigned officer who shall verify the quantity received."; and

(B) By striking in the second sentence the phrase "under the supervision of the assigned officer".

45. Section 201.580 is changed by striking from the first parentheses in the last sentence the words "or certificates".

46. Section 201.641 is changed:

(A) By striking the third sentence, which begins "Organoleptic examinations";

(B) By adding after the third (formerly the fourth) sentence, which begins "When the assistant regional commissioner finds that the", a new sentence to read "When the testing consists of an organoleptic examination, such examination shall be made only on the plant premises, or in a central laboratory of the proprietor (or central laboratory of any of its affiliated or subsidiary corporations, as defined in § 201.490, which is qualified as a proprietor of a distilled spirits plant), or, when approved by the assistant regional commissioner, in a recognized commercial laboratory."; and

(C) By striking in the fifth sentence, which begins "Samples withdrawn", the

phrase "as a laboratory standard or library sample", and inserting in lieu thereof the phrase "for beverage purposes".

47. Section 201.643 is changed by adding after paragraph (h) (but not as a part of paragraph (h)) a new sentence to read "When samples are taken, the proprietor shall indicate on his retained copy of the schedule, or on an appropriate record, the taking of the sample and the disposition thereof."

48. Section 201.646 is changed by striking in the first sentence the parenthetical phrase "(Including organoleptic examination)".

49. Section 201.652 is revised.

50. Section 201.658 is changed by striking the words "in bonded warehouses", and inserting in lieu thereof the words "under section 5234(a) (2), I.R.C."

51. Section 201.661 is changed:

(A) By striking in the first sentence the word "taxpaid", and inserting in lieu thereof the words "withdrawn from bond on payment or determination of tax";

(B) By striking the fourth sentence, which begins "Spirits bottled in bond for domestic use", and inserting in lieu thereof two sentences to read "Spirits bottled in bond for domestic use which have been removed from the premises where originally bottled (but on which the tax has not been paid or determined) may not be removed for exportation with benefit of drawback unless rebottled. Spirits originally bottled in bond for domestic use may (before payment or determination of tax) be reduced in proof and (after payment or determination of tax) be exported with benefit of drawback.";

(C) By inserting in the next to last sentence, after the word "payment", the words "or determination"; and

(D) By striking in the last sentence the words "taxpaid and", and inserting after the word "withdrawn", the words "from bond on payment or determination of tax".

52. Section 201.664 is revised.

53. Section 201.667 is changed:

(A) By inserting after the words "may be conveyed", the letter "(a)"; and

(B) By striking the words "or between different portions", and inserting in lieu thereof the phrases "(b) from the bonded warehouse facilities of a plant to the production facilities of such plant, or (c) between different portions".

54. A new undesignated center head and new section, designated § 201.671, are added, immediately following § 201.670.

Because these regulations implement changes made in chapter 51 of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1313) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the ef-

fective date limitation of section 4(c) of of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly these regulations shall be effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

In order to implement certain of the provisions of chapter 51 of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1313) which are applicable to distilled spirits plants, the following regulations are hereby prescribed as Part 201 of Title 26 of the Code of Federal Regulations:

Preamble. 1. The regulations in this part shall supersede regulations in this chapter to the extent set forth in § 201.3.

2. These regulations shall not affect any act done (except as provided in paragraph 3) or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part shall be effective on July 1, 1959. Any act done prior to such date to qualify a plant under this part, or otherwise provide for the orderly administration of this part, shall be subject to these regulations and shall have the same effect as if done on July 1, 1959.

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201.2	Effect on prior regulations.
201.3	Status of existing qualified establishments.

Subpart B—Definitions

201.11	Meaning of terms.
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Subpart C—Taxes

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201.23	Lien.
201.24	Certificate of discharge of lien.
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201.27	Tax on blends of rums or fruit brandies.
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201.28	Rectification tax.
201.29	Exemption from rectification tax.
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OCCUPATIONAL TAXES	
201.31	Rectifier's special tax.
201.32	Change to higher or lower rate.
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201.34	Exemption from liquor dealer's occupational tax.
201.35	Still manufacturer.
ASSESSMENTS	
201.36	Production not accounted for.
201.37	Spirits not removed from bond at end of bonding period.

Sec. 201.38	Assessment in cases of spirits lost or destroyed in bond, or in case of unauthorized removals.	Sec. 201.96	Execution under penalties of perjury.	Subpart G—Bonds and Consents, of Surety	Sec. 201.191	General.
	WINE		Subpart E—Location and Use	201.192	Additional condition of distiller's bond.	
201.39	Tax.	201.111	Restrictions as to location.	201.193	Additional conditions of bonded warehouseman's bond.	
201.40	Manufacture of wine products.	201.112	Bonded warehouses not on production premises.	201.194	Corporate surety.	
201.41	Increasing volume of wine.	201.113	Taxpaid bottling facilities.	201.195	Deposit of securities in lieu of corporate surety.	
201.42	Increasing taxable grade of wine.	201.114	Facilities for bottling in bond.	201.196	Consents of surety.	
	CLAIMS	201.115	Use of premises.	201.197	Authority to approve bonds and consents of surety.	
201.43	Claims in respect of spirits lost or destroyed in bond.	201.116	Storage rooms or buildings on bonded premises.	201.198	Disapproval of bonds or consents of surety.	
201.44	Claims in respect of spirits returned to bonded premises.	201.117	Continuity of premises.	201.199	Appeal to Director.	
201.45	Claims relating to spirits lost or destroyed after tax determination.	201.118	Location of bonded and bottling premises.	201.200	Indemnity bond, Form 3A.	
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AUTHORITY: §§ 201.1 to 201.671 issued under sec. 7805, 68A Stat. 917; 26 U.S.C. 7805. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A—Scope

§ 201.1 General.

The regulations in this part relate to the location, construction, equipment, arrangement, qualification, and operation (including activities incident thereto) of distilled spirits plants.

§ 201.2 Territorial extent.

This part applies to the several States of the United States, the Territory of Hawaii, and the District of Columbia.

(68A Stat. 911; 26 U.S.C. 7701)

§ 201.3 Effect on prior regulations.

The provisions of Subparts E, F, G, P, S, T, and V supersede all provisions of prior regulations in Parts 182, 216, 220, 221, 225, 230, and 235 of this chapter which pertain to the matters covered in such subparts. The provisions of Subpart B shall be applicable only to terms used in this part and in forms prescribed under this part. The provisions of Subparts A, C, D, and W supersede provisions of prior regulations in Parts 182, 216, 220, 221, 225, 230, and 235 of this chapter only with respect to such matters as are expressly provided for in such subparts.

§ 201.4 Status of existing qualified establishments.

Notwithstanding any other provision of this part, the assistant regional commissioner may approve the location, construction, arrangement, and method of operation of any establishment (subject to this part) which was qualified to operate on June 30, 1959, if such location, construction, arrangement, and method of operation were duly authorized on such date and if he deems that adequate security to the revenue will be afforded thereby. All establishments constructed and all changes approved after June 30, 1959, shall conform with the applicable requirements of this part.

(72 Stat. 1353; 26 U.S.C. 5178)

Subpart B—Definitions

§ 201.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Application for registration. The application required under section 5171 (a), I.R.C.

Approved containers. Portable containers, capable of secure closure, of wood, metal, or glass, or of such other material as the Director finds to be equally durable and suitable, except liquor bottles as defined in Part 175 of this chapter unless specifically included; pipelines and bulk conveyances unless specifically excluded; and tanks where specifically included.

Assigned officer. The internal revenue officer assigned to duties at the plant.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Basic permit. The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the

production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded warehouse. The part of the bonded premises, as described in the application for registration, in which spirits are authorized to be stored after entry for deposit in storage and prior to payment or determination of the internal revenue tax or withdrawal as provided in section 5214 or 7510, I.R.C.

Bottler. A proprietor of a distilled spirits plant qualified under this part to bottle taxpaid spirits or taxpaid spirits and wines.

Bottling-in-bond department. The part of the bonded premises in which spirits are bottled in bond under section 5233, I.R.C.

Bottling premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the rectification or bottling of spirits or wines on which the tax has been paid or determined are authorized to be conducted.

Bulk container. Any approved container of five gallons or more.

Bulk conveyance. Any tank-car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits), in bulk.

Carrier. Any person, company, corporation, or organization, including a proprietor, owner, consignor, consignee, or bailee, who transports distilled spirits (including denatured spirits) in any manner for himself or others.

CFR. The Code of Federal Regulations.

Commissioner. The Commissioner of Internal Revenue.

Completions. The spirits products bottled and cased or otherwise packaged or placed in approved containers for removal from the bottling premises.

Denatured or denaturing material. A material authorized under Parts 212 and 216 of this chapter to be added to spirits to render such spirits unfit for beverage or human internal medicinal use.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added pursuant to formulas prescribed in Parts 212 and 216 of this chapter.

Denaturing facilities. The facilities of the bonded premises in which the denaturation of spirits is authorized to be conducted.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Distillery. A distilled spirits plant, or part thereof, as described in the application for registration, authorized for the production of spirits.

Distilling material. Any alcoholic material intended for use in the original production of spirits.

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the declaration "I declare under the penalties of perjury that this _____ (insert type of document, such as, statement, report, claim, cer-

tificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country.

Fermenting material. Any material which is to be subjected to a process of fermentation to produce distilling material.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Fiscal year. The period from July 1 of one calendar year through June 30 of the following year.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Heads and tails. Distillates containing substantial quantities of fusel oil or aldehydes.

In bond. When used with respect to spirits (including denatured spirits) refers to such spirits possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax thereon has not been determined as provided in this chapter, and includes such spirits on the bonded premises of a distilled spirits plant, in transit between such premises, in transit from customs custody to such premises, and such spirits withdrawn without payment of tax under section 5214, I.R.C., and with respect to which relief from liability has not yet occurred under the provisions of section 5005(e) (2), I.R.C.

Industrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Intermediate product. Any product manufactured pursuant to an approved formula (for example vermouth, blended whisky, compound gin, or flavors) not intended for sale as such but for use in the manufacture of a rectified product.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this part.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A liquor bottle as defined in Part 175 of this chapter.

Nonindustrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Operating permit. The document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business or operation described therein.

Package. Any cask, barrel, drum, or similar approved container.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Plant or distilled spirits plant. An establishment qualified under this part for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

Plant number. The number assigned to a distilled spirits plant by the assistant regional commissioner, preceded by the abbreviation of the State in which the plant is located and the letters DSP; for example, "DSP-Md-17".

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof of distillation. The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of .7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate a distilled spirits plant.

Rectification. Any act constituting engaging in the business of rectifying.

Rectifier. Every person who rectifies, purifies, or refines distilled spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing from mash, wort, wash, or any other substance, through continuous closed vessels and pipes, until the production thereof is complete), and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, rum, gin, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

Rectifying facilities. The facilities of the bottling premises qualified under this part for the rectification of taxpaid spirits or wines.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Sealed conveyance. A conveyance, secured by Government seals or other devices approved by the Director, for the transportation of packages of spirits in bond.

Season. The period from January 1 through June 30 is the spring season and the period from July 1 through December 31 is the fall season.

Secretary. The Secretary of the Treasury.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated.

Stillage. The residue of distilling material after distillation.

Tank truck. A tank-equipped semi-trailer, trailer, or truck conforming to the requirements of this part.

Tax-determined or determined. When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that all things (other than packaging, marking, and stamping incident to removal) required by law and this chapter to be done before such spirits may be removed from the bonded premises have been completed.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof, the tax is determined on a wine gallon basis.

Taxpaid bottling facilities. The facilities of the bottling premises qualified under this part for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines, but not qualified for rectification.

Taxpaid spirits. Spirits on which the tax has been determined.

Taxpaid wines. Wines on which the tax has been determined.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Transfer in bond. The removal of spirits from one bonded premises to another bonded premises pursuant to this part.

Unfinished spirits. Spirits in the production system prior to production gauge.

U.S.C. The United States Code.

Wine spirits. As authorized for use in wine production by section 5373, I.R.C., means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from fresh or dried fruit, or their residues, or the wine or wine residues therefrom (except that where, in the production of natural wine, sugar has been used, the wine or the residuum thereof may not be used, if the unfermented sugars therein have been re fermented). Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits).

Subpart C—Taxes

SPIRITS

§ 201.21 Tax.

A tax is imposed by section 5001, I.R.C., on all spirits in bond or produced in or imported into the United States at the rate prescribed in such section on each proof gallon or wine gallon when below 100 degrees of proof and a proportionate tax at a like rate on all fractional parts of such proof gallon or wine gallon. Wines containing more than 24 percent of alcohol by volume are taxed as spirits, and all products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, are considered and taxed as spirits.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 201.22 Attachment of tax.

Under the provisions of section 5001 (b), I.R.C., the tax attaches to spirits as soon as such substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production, or by any subsequent process.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 201.23 Lien.

(a) *General.* Except as set forth in paragraph (b), the tax on the spirits becomes under the law (section 5004, I.R.C.) a first lien on the spirits distilled, on the distillery used for producing the spirits, and stills, vessels, and fixtures therein, the lot or tract of land on which such distillery is situated, and on any building thereon, from the time the spirits come into existence as such. In the case of a plant producing spirits, the premises subject to lien comprise the bonded premises of such plant, any building containing any part of the bonded premises, and land on which such building is situated as described in the application for registration.

(b) *Exception during term of bond.* No lien attaches to any lot or tract of land, distillery, building, or distilling apparatus, described in paragraph (a), by reason of distilling done during any period included within the term of an indemnity bond given as provided in § 201.200.

(c) *Conditions under which extinguished.* Section 5004, I.R.C., sets forth the conditions under which such first lien on the spirits and first lien on the other property described in paragraph (a) shall be terminated or discharged.

(72 Stat. 1317; 26 U.S.C. 5004)

§ 201.24 Certificate of discharge of lien.

Any person claiming any interest in the property subject to lien under section 5004(b) (1), I.R.C., may apply to the assistant regional commissioner for a duly acknowledged certificate to the effect that such lien is discharged and; if the assistant regional commissioner determines that such lien is extinguished, he shall issue such certificate, and any such certificate may be recorded.

(72 Stat. 1317; 26 U.S.C. 5004)

§ 201.25 Persons liable for tax.

(a) *Distilling.* Section 5005, I.R.C., provides that the distiller of spirits is liable for the tax thereon and that every proprietor or possessor of, and any person in any manner interested in the use of any still, distilling apparatus, or distillery, shall be jointly and severally liable for the tax on distilled spirits produced therefrom: *Provided*, That a person, not an officer or director of a corporate proprietor, owning or having the right of control of not more than 10 percent of any class of stock of such proprietor, is not liable by reason of such stock ownership or control: *Provided further*, That when spirits are transferred in bond persons so liable for the tax are relieved of such liability if (1) the

proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other and (2) no person so liable for the tax on the spirits transferred retains any interest in such spirits. The provisions of this paragraph shall apply to spirits transferred in bond, whether such transfers occurred prior to, or on, or after July 1, 1959, but shall not apply in any case in which the tax was paid or determined prior to such date.

(b) *Storage on bonded premises.* Section 5005(c), I.R.C., provides that every person operating bonded premises shall be liable for the tax on all spirits while the spirits are stored on such premises, and on all spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax continues until the spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved under the provisions of section 5008(a), I.R.C. Claims for relief from liability for spirits lost on bonded premises are provided for in § 201.43. Voluntary destruction of spirits in bond is provided for in Subpart S.

(c) *Withdrawals without payment of tax.* Pursuant to section 5005(e), I.R.C., any person who withdraws spirits from the bonded premises of a plant without payment of tax, as provided in section 5214, I.R.C., shall be liable for the tax on such spirits from the time of such withdrawal. Such persons shall be relieved of any such liability at the time, as the case may be, the spirits are exported, deposited in a foreign-trade zone, used in production of wine, deposited in a customs manufacturing bonded warehouse, or laden as supplies upon or used in the maintenance or repair of certain vessels or aircraft, as provided by law.

(d) *Withdrawals free of tax.* Persons liable for tax under paragraph (a) are relieved of such liability as to spirits withdrawn free of tax under this chapter at the time such spirits are so withdrawn from bonded premises.

(72 Stat. 1318; 26 U.S.C. 5005)

§ 201.26 Time for tax determination.

The tax on spirits in bond shall be determined when the spirits are withdrawn therefrom, and in the case of spirits withdrawn from bonded premises, upon completion of the gauge for determination of tax and before withdrawal from such premises. In any case, such tax shall be determined (except as to spirits (a) of 190 degrees or more of proof, (b) denatured spirits, or (c) spirits which on July 26, 1936, were 8 years of age or older and which were in bonded warehouses on that date) as to spirits entered for deposit in storage in internal revenue bond, within 20 years from the date of original entry for such deposit.

(72 Stat. 1320; 26 U.S.C. 5006)

RUMS OR FRUIT BRANDIES**§ 201.27 Tax on blends of rums or fruit brandies.**

In addition to the tax imposed by section 5001, I.R.C., a tax is imposed by sec-

tion 5023, I.R.C., at the rate prescribed therein on each proof gallon and at a proportionate rate on fractions thereof, in the case of rums or fruit brandies mixed or blended on bonded premises pursuant to section 5234(c), I.R.C., and withdrawn from bonded premises, except that the tax does not apply where such spirits (a) have been aged in wood at least 2 years at the time of their first blending or mixing, or (b) are withdrawn free of tax or without payment of tax as provided in section 5214 or 7510, I.R.C.

(72 Stat. 1328, 1367; 26 U.S.C. 5023, 5234)

RECTIFIED PRODUCTS**§ 201.28 Rectification tax.**

A tax is imposed by section 5021, I.R.C., at the rate prescribed therein, on each proof gallon and a proportionate tax at a like rate on all fractional parts thereof (in addition to the other taxes imposed by chapter 51, I.R.C.) on spirits and wines which are rectified, purified, or refined in such manner, and on all mixtures produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier (as defined in section 5082, I.R.C.): *Provided*, That a rectifier shall not twice be required to pay such tax because of separate acts of rectification of a lot of spirits or wines, pursuant to an approved formula, between the time the spirits or wines are received on bottling premises and the time they are removed therefrom. Transfers from one proprietor to another (including transfers between alternate proprietors) are deemed to be removals from bottling premises for the purpose of this section. If products which have been subjected to taxable rectification are in process at the time of discontinuance of business or at the time of transfer between proprietors (including transfers between alternate proprietors) the tax shall be paid by the outgoing proprietor, and if such products are subjected to further taxable rectification by another proprietor the tax shall again be paid.

(72 Stat. 1328, 1338; 26 U.S.C. 5021, 5082)

§ 201.29 Exemption from rectification tax.

The rectification tax imposed by section 5021, I.R.C., does not apply in the case of—

(a) Absolute alcohol produced on bonded premises from high-proof distilled spirits by the extraction of water pursuant to the provisions of this chapter;

(b) Gin produced on bonded premises in the course of original and continuous distillation over juniper berries and other natural aromatics;

(c) Gin produced on bottling premises by redistillation of pure spirits over juniper berries and other natural aromatics in the manner authorized on bonded premises;

(d) Vodka (as defined in 27 CFR Part 5) produced on bonded premises in the course of original and continuous distillation or other original and continuous processing, including processing through any material which will not remain incorporated with such spirits

when the production thereof is complete;

(e) Vodka produced on bottling premises of plants from pure spirits in the manner authorized on bonded premises;

(f) Spirits purified or refined on bonded premises in the course of original and continuous distillation or other original and continuous processing, through any material which does not remain incorporated with such spirits when the production thereof is complete;

(g) Spirits (including denatured spirits) redistilled on bonded premises;

(h) Mixed or blended wines, when mixed or blended for the sole purpose of perfecting such wines in accordance with recognized commercial standards, as provided in this chapter;

(i) Wines of the same kind and taxable grade mixed together to facilitate handling, as provided in this chapter;

(j) Wines subjected to preserving, filtering, or clarifying treatment, as provided in this chapter;

(k) Cordials or liqueurs, on which a tax is imposed by section 5022, I.R.C.;

(l) Blends made exclusively of two or more straight whiskies aged in wood for a period of not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water, and if not reduced below 80 proof, as provided in this chapter;

(m) Blends made exclusively of two or more pure fruit brandies distilled from the same kind of fruit, or of two or more rums, aged in wood for a period of not less than two years and without the addition of coloring or flavoring matter (other than caramel) or any other substance than pure water, and if not reduced below 80 proof, as provided in this chapter;

(n) Spirits distilled at 190 degrees or more of proof (with or without reduction subsequent to distillation) mingled on bonded premises;

(o) Spirits mingled on bonded premises, or in the course of removal therefrom, for redistillation, storage, or any other purpose, incident to the requirements of National defense;

(p) Heterogeneous spirits mingled in bulk gauging tanks on bonded premises for immediate removal to bottling premises, exclusively for use in taxable rectification, or in blends of straight whiskies, fruit brandies, or rums, as prescribed in this chapter;

(q) Mixtures or blends, made on bonded premises, of fruit brandies distilled from the same kind of fruit at not more than 170 degrees of proof, or of beverage rums, mixed or blended for the sole purpose of perfecting such brandies or rums according to commercial standards, as provided in this chapter;

(r) Mingled homogeneous spirits;

(s) Spirits mingled on bonded premises for immediate redistillation, immediate denaturation, or immediate removal from such premises free of tax under section 5214(a) (1), (2), or (3), or section 7510, I.R.C.;

(t) Spirits mingled on bonded premises for further storage in bond, as provided in section 5234(a) (2), I.R.C., and this chapter;

(u) Commercial brandy or rum by reason of the addition of caramel on bonded premises, as provided in this chapter;

(v) Spirits from which only extraneous insoluble materials have been removed, or in which only minor changes in the soluble color or soluble solids have been made, as provided in this chapter;

(w) Wines or distilled spirits used by apothecaries exclusively in the preparation or making up of medicines unfit for use for beverage purposes;

(x) Distilled spirits on which the tax has been paid or determined and recovered by a manufacturer from dregs or marc of percolation or extraction, or from medicines, medicinal preparations, food products, flavors, or flavoring extracts, which do not meet the manufacturer's standards, if such recovered distilled spirits are used by such manufacturer in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for use for beverage purposes.

The exemption of products from the rectification tax by reason of the acts enumerated in this section does not exempt such products from the rectification tax if such products are otherwise subjected to an act of taxable rectification. The adding of denaturants to spirits under this chapter does not constitute rectification. The provisions of this section are not intended to supersede any other provisions of this chapter not specifically inconsistent therewith.

(68A Stat. 900, 72 Stat. 1328, 1338, 1356, 1362, 1365, 1367, 1381; 26 U.S.C. 7510, 5021, 5022, 5023, 5025, 5082, 5201, 5214, 5223, 5234, 5363)

§ 201.30 Tax on cordials and liqueurs containing wine.

A tax is imposed by section 5022, I.R.C., at the rate imposed therein on each wine gallon, and at a proportionate rate on fractions thereof, in lieu of rectification tax, on all liqueurs, cordials, or similar compounds produced in the United States and not produced for sale as wine, wine specialties, or cocktails, which contain more than 2½ percent by volume of wine of an alcoholic content in excess of 14 percent by volume. "Liqueurs, cordials, or similar compounds" shall mean those products which contain, not less than 2½ percent by weight of sweetening material and possess the taste, aroma, and characteristics generally attributed to liqueurs and cordials.

(72 Stat. 1328; 26 U.S.C. 5022)

OCCUPATIONAL TAXES

§ 201.31 Rectifier's special tax.

Every person engaging in business as a rectifier, within the meaning of the term as defined in subpart B, shall file Form 11 with the district director and pay special tax at the applicable rate prescribed in section 5081, I.R.C. The tax is imposed as of the first day of July in each year, or on commencing such business. In the former case the tax is reckoned for one year and in the latter case it is reckoned proportionately from the first day of the month in which the liability to special tax commenced and

to and including the 30th day of June following. Section 5142, I.R.C., provides that no person shall engage in or carry on the business of a rectifier until he has paid the special tax therefor. The stamp issued as a receipt for the payment of the special tax is required by section 6806(a), I.R.C., to be conspicuously placed and kept in the rectifier's place of business.

(68A Stat. 831, 846, 72 Stat. 1338, 1346, 1347; 26 U.S.C. 6806, 7011, 5081, 5082, 5142, 5143)

§ 201.32 Change to higher or lower rate.

A rectifier who has paid the special tax as a rectifier of less than 20,000 proof gallons and who exceeds that quantity shall immediately file with the district director an amended Form 11 and pay the special tax as a rectifier of 20,000 proof gallons or more. The rectifier may submit the stamp representing the special tax paid at the lower rate to the district director with a claim on Form 843 for refund of such tax. A rectifier who has paid special tax at the higher rate, but actually rectifies less than 20,000 proof gallons of spirits or wines during the year, may file an amended Form 11 with the district director, pay the special tax as a rectifier of less than 20,000 proof gallons, and submit the stamp representing the special tax paid at the higher rate with a claim on Form 843 for refund of such tax.

(68A Stat. 791, 830, 72 Stat. 1338; 26 U.S.C. 6402, 6805, 5081)

§ 201.33 Exemption from rectifier's occupational tax.

Payment of the rectifier's occupational tax imposed by section 5081, I.R.C., is not required by reason of the operations, or the employment of processes, or the manufacture of products, described in § 201.29 as not requiring payment of the rectification tax imposed under section 5021, I.R.C., except as to those described in § 201.29 (c), (e), (h) (on other than bonded wine cellar premises), (k), (l), and (m).

(72 Stat. 1328; 1387; 26 U.S.C. 5025, 5391)

§ 201.34 Exemption from liquor dealer's occupational tax.

(a) *Exemption of proprietor.* No proprietor of a plant shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the assistant regional commissioner, or at his plant, of spirits or wines which, at the time of sale, are stored at his plant or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere by the proprietor, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax for sales at his prin-

principal business office rather than for sales at his plant, he shall notify the assistant regional commissioner of the region in which the plant is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies of the notice will be returned to the proprietor, one to be filed at the plant and the other to be filed at the principal office, and the original will be retained by the assistant regional commissioner. Where the exemption is claimed for a place other than the plant, special tax shall be paid at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 201.35 Still manufacturer.

Special occupational tax as a still manufacturer and a commodity tax for each still or condenser manufactured is imposed by section 5101, I.R.C., on certain persons who manufacture stills or condensers to be used in distilling. Provisions in respect of the occupational and commodity taxes imposed on manufacturers of stills or condensers are contained in Part 196 of this chapter.

(72 Stat. 1339; 26 U.S.C. 5101)

ASSESSMENTS

§ 201.36 Production not accounted for.

Where the assistant regional commissioner finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the difference between the quantity reported and the quantity found to have been actually produced.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 201.37 Spirits not removed from bond at end of bonding period.

Where the proprietor of a bonded warehouse fails to file application for the withdrawal of spirits and withdraw the spirits within the time prescribed by § 201.26, the assigned officer will determine the tax on the spirits and forward a report to the assistant regional commissioner in order that the tax may be assessed.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 201.38 Assessment in cases of spirits lost or destroyed in bond, or in cases of unauthorized removals.

Where spirits (including denatured spirits) in bond are lost or destroyed (except spirits in respect of which the tax is not collectible by reason of the provisions of section 5008 (a) or (f), I.R.C.) and the proprietor or other person liable for the tax on the spirits fails to file a claim for remission as provided in § 201.43(a) or when such claim is denied, the tax thereon shall be assessed. In any case where spirits in bond, on which the tax has not been paid or determined as provided by this chapter, are removed from bonded premises other than as authorized by law, the tax shall be assessed. Tax shall also be assessed in the circumstances described in section 5006(b), I.R.C., with respect to casks or packages of spirits deposited in storage in bond or spirits filled on bonded premises into casks or packages after entry

and deposit, when the tax is not paid upon the demand of the assistant regional commissioner.

(72 Stat. 1320, 1323; 26 U.S.C. 5006, 5008)

WINE

§ 201.39 Tax.

A tax is imposed by section 5041, I.R.C., on wines (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into the United States. Proprietors may, as provided in §§ 201.40, 201.41, and 201.42, become liable for wine taxes in connection with (a) the manufacture of wine products, (b) an increase in the volume of wine, or (c) a change in the taxable grade of wine.

(72 Stat. 1331; 26 U.S.C. 5041)

§ 201.40 Manufacture of wine products.

(a) *Vermouth.* Vermouth made on bottling premises is subject to the rectification tax, and the wine tax imposed by section 5041, I.R.C.

(b) *Carbonated and sparkling wine.* Wines carbonated on bottling premises by secondary fermentation (bulk or bottle process) or artificially carbonated on bottling premises with carbon dioxide are subject to the rectification tax and the wine tax imposed by section 5041, I.R.C., on sparkling wine or artificially carbonated wine, as the case may be.

(c) *Distinct products.* Where the rectifying, mixing, compounding, or blending of wine results in the manufacture of a distinct product, such as aperitif or effervescent wine, the rectification tax, and the wine tax at the rate imposed by section 5041, I.R.C., shall be paid.

(72 Stat. 1328, 1331; 26 U.S.C. 5021, 5041)

§ 201.41 Increasing volume of wine.

Where the volume of wine is increased by the addition of any material the resultant product is subject to the rectification tax on the entire quantity, and wine tax on the additional gallonage: *Provided*, That if the wine is so treated as to convert it into a distinct product other than wine and it is not sold as wine, no additional wine tax is due.

(72 Stat. 1328, 1338; 26 U.S.C. 5021, 5041)

§ 201.42 Increasing taxable grade of wine.

(a) *Blended wines.* Where the taxable grade of any wine is increased by blending with other wines, additional wine tax shall be paid, regardless of whether the blended wine is subject to the rectification tax or exempt from such tax. The additional wine tax due is the difference between the wine tax on the blended wine under its new taxable grade and the tax previously paid or determined on the wines used for such blending.

(b) *Compounded wines.* Except as provided in § 201.30, the product of any rectifying, mixing, or compounding of wine with distilled spirits is subject to the rectification tax imposed by section 5021, I.R.C., and where such processing results in an increase in the taxable grade of a product taxable as wine, additional wine tax shall be paid on the dif-

ference between the wine tax due on the product under its new taxable grade and the tax previously paid or determined on the wines used therein.

(72 Stat. 1328, 1331; 26 U.S.C. 5021, 5041)

CLAIMS

§ 201.43 Claims in respect of spirits lost or destroyed in bond.

(a) *Claims for remission.* Claims for remission of tax under this part, relating to the destruction or loss of spirits in bond, shall be filed on letter size paper (original only) with the assistant regional commissioner, and shall set forth the following:

(1) Identification (including serial numbers if any) and location of the container or containers from which the spirits were lost, or removed for destruction;

(2) Quantity of spirits lost or destroyed from each container, and the total quantity of spirits covered by the claim;

(3) Total amount of tax for which the claim is filed;

(4) Name, number, and address of the plant from which withdrawn without payment of tax or removed for transfer in bond (if claim involves spirits so withdrawn or removed) and date and purpose of such withdrawal or removal;

(5) Date of the loss or destruction (or, if not known, date of discovery), the cause or nature thereof, and all the facts relative thereto;

(6) Name of the carrier, where a loss in transit is involved;

(7) If lost by theft, facts establishing that the loss did not occur as the result of any negligence, connivance, collusion, or fraud on the part of the proprietor of the plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(8) In the case of a loss by theft, whether the claimant is indemnified or recompensed in respect of the tax on the spirits lost, and if so, the amount and nature of such indemnity or recompense and the actual value of the spirits, less the tax;

(9) In the case of voluntary destruction, the claim shall be supported by a copy of Form 1577.

(b) *Claim for abatement or refund.* Claims for abatement of an assessment, or for refund of tax which has been paid, in the case of spirits lost or destroyed in bond shall be filed on Form 843 (original only) with the assistant regional commissioner and shall set forth the information called for in the case of claims for remission filed under paragraph (a) and, in addition thereto, shall set forth (1) the date of assessment or payment of the tax with respect to which abatement or refund is claimed, and (2) the name, plant number, and the address of the plant where the tax was paid or assessed (or name and address and capacity of any other person who paid or was assessed the tax, if the tax was not paid by or assessed against a proprietor).

(c) *Supporting documents.* Claims referred to in paragraphs (a) and (b) shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction, and

in the case of such claims pertaining to spirits lost while being transferred by carrier, by a copy of the bill of lading.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.44 Claims in respect of spirits returned to bonded premises.

Claims for refund, relating to spirits which have been withdrawn from bonded premises on payment or determination of tax and which are returned thereto under section 5215, I.R.C., as provided in Subpart T, shall be filed on Form 843 (original only) with the assistant regional commissioner, and shall set forth the following:

(a) Quantity of spirits so returned;
(b) Amount of tax for which the claim is filed;

(c) Name, number, and address of the plant from which the spirits were so withdrawn, the date of such withdrawal, and purpose for which withdrawn;

(d) Name, address, and plant number of the plant to which the spirits were returned, and the date of such return;

(e) A statement as to whether or not the spirits were returned in the same bulk container in which withdrawn from bonded premises before any processing thereof and before the removal of any spirits therefrom (other than samples for testing or analysis);

(f) The reason for such return and all facts relating thereto.

There shall be attached to such claim a copy of the approved application provided for in § 201.573, and a copy of the assigned officer's gauge report of returned spirits. Such claims shall be filed by the proprietor of the plant to which the spirits were returned and within six months of the date of the return, and the spirits on which refund is claimed must not have been withdrawn from bonded premises more than six months prior to the date of return to bonded premises. If such claim is allowed, refund (without interest) will be made.

(72 Stat. 1323, 1364; 26 U.S.C. 5008, 5215)

§ 201.45 Claims relating to spirits lost or destroyed after tax determination.

(a) *Claims for losses after tax determination and prior to completion of physical removal from bonded premises.* Claims for abatement or refund of tax under this part, relating to losses of spirits occurring on bonded premises after tax determination but prior to physical removal from such premises, shall be prepared and filed as provided in, and contain the information called for under, § 201.43(b) and be supported by documents as provided under § 201.43(c). Such claims shall further state whether the lot of spirits in which the loss occurred was being withdrawn for rectification or bottling, and if so, the name, number, and address of the bottling premises.

(b) *Claims relating to spirits withdrawn for rectification or bottling and voluntarily destroyed.* Claims for abatement or refund of tax under this part, in the case of spirits withdrawn on payment or determination of tax from bond to bottling premises for rectification or bottling and voluntarily destroyed under the provisions of Subpart S, as unsuitable

for the purpose for which intended to be used, shall be filed with the assistant regional commissioner on Form 843 (original only) by the proprietor of the bottling premises who withdrew the spirits. Such claims shall contain the information required under § 201.43(a) (1), (2), and (3), and in addition, shall state (1) the name, number, and address of plant from which withdrawn; (2) date of destruction, reason therefor, and all facts relative thereto; (3) the date of determination of the tax; (4) the date of payment of the tax (if claim is for refund) or of assessment of the tax (if claim is for abatement); (5) the serial number of the approved application, Form 1577; and (6) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination of tax for removal to bottling premises for rectification or bottling, and whether the spirits covered by the claim were destroyed before bottling or casing or other packaging of such spirits for removal from his bottling premises.

(c) *Claims relating to losses of spirits, withdrawn for rectification or bottling, by reason of accident, flood, fire, or other disaster.* Claims for abatement or refund of tax under this part, relating to spirits withdrawn for rectification or bottling and lost due to accident, flood, fire, or other disaster, shall be filed with the assistant regional commissioner on Form 843 (original only) by the proprietor who withdrew the spirits. The claim shall contain the information required under § 201.43(a) (1), (2), (3), (5), and (6) and, in addition, shall state (1) the date of determination of the tax; (2) the date of payment of tax (if claim is for refund) or of assessment of the tax (if claim is for abatement); (3) whether or not the claimant is indemnified or recompensed for the tax, and if so, the extent and nature of such indemnification or recompense; and (4) whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination of tax for removal to bottling premises for rectification or bottling and whether the spirits covered by the claim were lost before bottling or casing or other packaging of such spirits for removal from his bottling premises. Supporting statements as provided in § 201.484 shall be submitted with such claims.

(d) *Claims for losses occurring in rectifying, packaging, bottling and casing operations.* Claims for refund of tax under this part, relating to spirits lost by reason of, or incident to, authorized rectifying, packaging, bottling, or casing operations (including losses by leakage or evaporation occurring during removal from bond to the bottling premises and pending rectification or bottling) as provided for in Subpart P, shall be filed with the assistant regional commissioner on Form 843 (original only) and shall set forth the following:

(1) A statement as to whether the claim covers tax on spirits withdrawn from bond by the claimant on payment or determination of tax for removal to bottling premises for rectification or bottling and whether the spirits covered by

the claim were lost before bottling or casing or other packaging of such spirits for removal from his bottling premises;

(2) In the case of loss by reason of authorized rectifying, packaging, bottling, or casing operations as provided for in § 201.482, the period covered by the claim, and the quantity of spirits so lost not in excess of the limitation contained in § 201.485;

(3) In the case of loss in the manufacture of gin or vodka provided for in § 201.487 the period covered by the claim, the quantity of spirits so lost, and whether the loss occurred in the process of manufacture in a closed system approved by the assistant regional commissioner.

Claims described in this paragraph shall be supported by Form 2611.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.46 Claims relating to samples taken for the United States.

Claims for refund of tax, relating to samples of spirits taken by internal revenue officers, after payment or determination of tax, as provided in § 201.82, shall be filed on Form 843 (original only) with the assistant regional commissioner, and shall set forth the following:

(a) Quantity of spirits taken as samples;

(b) Amount of tax for which the claim is filed;

(c) Name, number, and address of the plant from which the samples were taken;

(d) The date, or dates, of Form 1669 covering the removal of the samples.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.47 Execution of claims and supporting documents.

All claims filed under this part shall (a) show the name, address, and capacity of the claimant, (b) be signed by the claimant or his duly authorized agent, and (c) be executed under the penalties of perjury as provided in § 201.96. Forms, supporting statements, and any other documents required by this part to be submitted with a claim shall be attached to such claim and shall be deemed to be a part thereof. The assistant regional commissioner may require the submission of additional evidence in support of any claim filed under this part when deemed necessary for proper action on the claim.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.48 Claims for credit of tax.

Wherever it is provided in this part that a claim may be filed for refund of a tax, the claimant may (except in the case of claims for refund of rectifier's special tax as provided in § 201.32) file with the assistant regional commissioner a claim for allowance of credit of such tax. Claims for credit of tax may be filed after determination and before payment of the tax. A claim for credit shall be submitted, in duplicate, and shall contain the same information, be filed within the same period, and be executed in the same manner, as required for a like claim for refund; Form 843 will not be used. The claimant may not anticipate allow-

ance of a credit or make an adjusting entry in a tax return pending action on the claim. When written notification of allowance of credit is received from the assistant regional commissioner, the claimant shall make an adjusting entry and explanatory statement (specifically identifying the notification of allowance of credit) in the next distilled spirits tax return (or returns) to the extent necessary to exhaust the credit.

(72 Stat. 1328; 26 U.S.C. 5008)

Subpart D—Administrative and Miscellaneous Provisions

AUTHORITIES OF THE DIRECTOR

§ 201.61 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(72 Stat. 1361; 26 U.S.C. 5207)

§ 201.62 Pilot operations.

The Director may waive any regulatory provisions of chapter 51, I.R.C., and of these regulations, for temporary pilot or experimental operations for the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over plants. For this purpose, the Director may, with the approval of the proprietor thereof, designate any plant for such operations. The provision of law and regulations waived and the period of time during which such waiver shall continue shall be stated in writing by the Director. The provisions of this section shall not be construed as authority to waive the filing of any bond or the payment of any tax provided for in chapter 51, I.R.C.

(72 Stat. 1395; 26 U.S.C. 5554)

§ 201.63 Experimental distilled spirits plants.

The Director may authorize the establishment and operation of experimental plants for specific and limited periods of time solely for experimentation in, or development of—

(a) Sources of materials from which spirits may be produced;

(b) Processes by which spirits may be produced or refined; or

(c) Industrial uses of spirits.

The Director may waive any provision of chapter 51, I.R.C., and of this chapter (other than section 5312, I.R.C., this section, and § 201.64) to the extent he deems necessary to effectuate the purposes of section 5312(b), I.R.C., except that he may not waive the payment of any tax on spirits removed from such plant.

(72 Stat. 1375; 26 U.S.C. 5312)

§ 201.64 Application to establish experimental plants.

Any person desiring to establish an experimental plant shall make written application, in triplicate, to the Director, through the assistant regional commis-

sioner, and obtain the Director's approval of the proposed establishment. The applicant shall file with such application a bond in such form and penal sum as required by the Director. Such application shall state the nature, extent, and purpose of the operations to be conducted and describe the processes and equipment, the location of the plant (including the proximity to other premises or operations subject to the provisions of chapter 51, I.R.C.) and the security measures to be provided. The Director may require the submission of such additional information as he deems necessary. The assistant regional commissioner shall not permit operations until he has found that the plant conforms to the specifications set forth in the application, as approved, and the applicant has complied with provisions of chapter 51, I.R.C., and this part not specifically waived by the Director.

(72 Stat. 1375; 26 U.S.C. 5312)

§ 201.65 Spirits produced in industrial processes.

Persons producing spirits in industrial processes (including spirits produced as a by-product in connection with chemical or other processes) are distillers and are required to qualify under the provisions of chapter 51, I.R.C., and this part. Where nonpotable chemical mixtures containing spirits are produced (a) for transfer to the bonded premises of a distilled spirits plant for completion of processing (distilling), or (b) as a by-product (which would require expensive and complex equipment for the recovery of spirits therefrom) (1) which is destroyed on the premises where produced, or (2) which contains not more than 10 percent of spirits and will not be further processed for the purification or removal of the spirits and which the Director finds is as nonpotable as completely denatured spirits and the recovery of spirits therefrom would be at least as difficult as the recovery of spirits from completely denatured spirits, the Director may waive any provision of chapter 51, I.R.C., or this chapter, with respect to the production of such mixture, including any provision relating to qualification. Where the producer of such nonpotable mixtures desires to secure a waiver of any of such provisions he shall file an application therefor with the Director through the assistant regional commissioner. The application shall set out the name and address of the producer, the chemical composition and source of the nonpotable mixture, and the approximate percentages of the chemicals and of the spirits in the mixture, the method of operation proposed, and, if applicable, the bonded premises whereat the mixture will be processed, and such other information as the Director may require. If the Director finds that the waiver of the requirements, or any of them, will not jeopardize the revenue and will not unduly hinder supervision of the operations, he may approve the application under such terms and conditions as he deems advisable, and subject to the furnishing of any bond which he deems necessary.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.66 Other business.

The Director may authorize the carrying on of such other businesses (not specifically prohibited by section 5601(a) (6), I.R.C.) on premises of plants (except in the rooms or buildings on bonded premises authorized for use for the storage of spirits in casks, packages, cases, or similar portable containers) as he finds will not jeopardize the revenue, hinder effective administration of this chapter, or be contrary to law. Such authorization shall designate the premises (i.e., bonded, bottling, or general) on which such other business is authorized to be conducted.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.67 Recovery and reuse of denatured spirits in manufacturing processes.

The following persons are not, by reason of the activities listed below, subject to the provisions of this part but they shall comply with the provisions of this chapter relating to the use and recovery of spirits or denatured spirits:

(a) Manufacturers who use denatured spirits, or articles or substances containing denatured spirits in a process wherein any part or all of the spirits, including denatured spirits, are recovered.

(b) Manufacturers who use denatured spirits in the production of chemicals which do not contain spirits but which are used on the permit premises in the manufacture of other chemicals resulting in spirits as a by-product.

(c) Manufacturers who use chemicals or substances which do not contain spirits or denatured spirits (but which were manufactured with specially denatured spirits) in a process resulting in spirits as a by-product.

(72 Stat. 1372; 26 U.S.C. 5273)

§ 201.68 Disaster exemptions.

The Director may, whenever he finds that it is necessary or desirable, by reason of disaster, temporarily exempt the proprietor of any plant from any provision of the internal revenue laws and this part relating to spirits, except those requiring the payment of tax on spirits, to the extent he may deem necessary or desirable.

(72 Stat. 1397; 26 U.S.C. 5562)

§ 201.69 Exemptions to meet the requirements of National defense.

The Director may temporarily exempt proprietors from any provision of the internal revenue laws or this part relating to spirits except those requiring payment of tax thereon whenever in his judgment it is expedient to do so to meet the requirements of the National defense.

(72 Stat. 1397; 26 U.S.C. 5561)

§ 201.70 Discontinuance of storage facilities by the Director.

When the Director finds that any facilities for the storage of spirits on bonded premises are unsafe or unfit for use, or the spirits contained therein are subject to great loss or wastage, he may require the discontinuance of the use

of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the Director may require and the expense of the transfer shall be paid by the owner or the warehouseman of the spirits. Whenever the owner of such spirits or the warehouseman fails to make such transfer within the time prescribed or to pay the just and proper expense of such transfer, as ascertained and determined by the Director, such spirits may be seized and sold in the same manner as goods sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expense of such sale and removal, and the balance shall be paid over to the owner of such spirits.

(72 Stat. 1369; 26 U.S.C. 5236)

§ 201.71 Experimental or research operations by scientific institutions and colleges of learning.

(a) *General.* The Director may authorize any scientific university, college of learning, or institution of scientific research to produce, receive, blend, treat, test, and store spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes. The Director may waive any provision of chapter 51, I.R.C., or this chapter (other than section 5312, I.R.C., and this section) to the extent he deems necessary to effectuate the purposes of section 5312(a), I.R.C., except he may not waive the payment of any tax on distilled spirits removed from any such university, college, or institution.

(b) *Qualification.* Any university, college, or institution desiring to conduct any of the experimental or research operations listed in the preceding paragraph shall make written application, in triplicate, to the Director, through the assistant regional commissioner, and obtain the Director's approval of the proposed operations. The applicant shall file with such application a bond in such form and penal sum as required by the Director. The application shall state the nature, extent, and purpose of the operations to be conducted and describe the processes and equipment, the location at which operations will be conducted (including identification of the building or buildings, or the portions thereof to be used), and the security measures to be provided. The Director may require such additional information as he deems necessary. Operations shall not be commenced until authorized by the Director.

(c) *Records.* Reports concerning the operations need not be submitted unless required by the Director, but records of the quantities of spirits produced, received, and used each day shall be made and retained for inspection by internal revenue officers.

(d) *Discontinuance of operations.* When operations authorized by the Director are discontinued, all remaining spirits shall be disposed of by destruction.

Notice of the proposed destruction shall be given to the assistant regional commissioner at least 5 days in advance of the destruction. When these spirits have been destroyed notice of the discontinuance of operations shall be given to the assistant regional commissioner.

(72 Stat. 1375; 26 U.S.C. 5312)

AUTHORITIES OF THE ASSISTANT REGIONAL COMMISSIONER

§ 201.72 Other businesses.

Application to conduct at a plant (except in the rooms or buildings on bonded premises authorized for use for the storage of spirits in casks, packages, cases, or similar containers) a type of business other than that of a distiller, bonded warehouseman, rectifier, or bottler may be approved by the assistant regional commissioner if the Director has, as provided in § 201.66, authorized the carrying on of a business of the type proposed, unless the assistant regional commissioner finds that there are particular conditions in respect of the applicant's plant that would cause the carrying on of such business to be a danger to the revenue or a hindrance to the effective administration of this chapter.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.73 Removal of distilling material.

The assistant regional commissioner may, on receipt of an application therefor, authorize the removal from bonded premises of mash, wort, or wash—

(a) To plant premises, other than bonded premises, for use in such businesses, as may be authorized under § 201.72;

(b) To other premises for use in processes of manufacture not involving the production of (1) vinegar by the vaporizing process, (2) spirits, or (3) alcoholic beverages; or

(c) For destruction; if he deems that such removal and use, or method of destruction, will not constitute a jeopardy to the revenue. The proprietor shall record the quantity and alcoholic content of the mash, wort, or wash removed or destroyed. The person receiving any such mash, wort, or wash shall record the quantities (and alcoholic content) received and used or disposed of, and maintain such records on the premises where such material is used; reports of such operations need not be submitted unless required by the assistant regional commissioner. Operations authorized by this section shall be under such supervision as the assistant regional commissioner may direct.

(72 Stat. 1365; 26 U.S.C. 5222)

§ 201.74 Assignment of officers.

The assistant regional commissioner shall assign such number of internal revenue officers to plants as he deems necessary to maintain supervision of operations conducted on such premises.

(72 Stat. 1357, 1395; 26 U.S.C. 5202, 5553)

§ 201.75 Hours of operation.

All operations at a plant requiring direct supervision by an assigned officer shall be conducted during an eight-hour work day between 7:00 a.m. and 5:00

p.m. unless, pursuant to the proprietor's application specifying the reasons for requesting extension or change of hours of operation, the assistant regional commissioner authorizes the performance and supervision of such operations during other hours. The assistant regional commissioner, in administering this provision, shall not restrict such operation or function to a greater extent than did the provisions of internal revenue law and regulations on June 30, 1959.

(72 Stat. 1356; 26 U.S.C. 5201)

§ 201.76 Allowance of claims.

The assistant regional commissioner is authorized to allow claims for remission, abatement, credit, and refund of tax, and for redemption of stamps, filed under the provisions of this part and to credit, without claim, the tax on samples taken as provided in § 201.82 for use by the United States:

(68A Stat. 830, 72 Stat. 1323; 26 U.S.C. 6805, 5008)

§ 201.77 Installation of meters, tanks, and other apparatus.

The assistant regional commissioner is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the assistant regional commissioner deems advisable for the purpose of protecting the revenue.

(72 Stat. 1395; 26 U.S.C. 5552)

§ 201.78 Approval of qualifying documents.

The assistant regional commissioner is authorized to approve, except as otherwise provided in this part, all qualifying documents required by this part.

(72 Stat. 1349, 1352, 1353, 1394; 26 U.S.C. 5171, 5172, 5173, 5174, 5551)

AUTHORITIES OF INTERNAL REVENUE OFFICERS

§ 201.79 Right of entry and examination.

Any internal revenue officer may at all times, as well by night as by day, enter any plant, or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any internal revenue officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.80 Authority to break up ground or walls.

Any internal revenue officer, and any person acting in his aid, may break up the ground on any part of a plant or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof,

or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.81 Detention of containers.

Any internal revenue officer may detain any container containing, or supposed to contain, spirits when he has reason to believe that the tax imposed by law on such spirits has not been paid or determined as required by law or this chapter, or that such container is being removed in violation of law or this chapter, and every such container may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the assistant regional commissioner.

(72 Stat. 1375; 26 U.S.C. 5311)

§ 201.82 Samples for the United States.

Any internal revenue officer is authorized to take samples of spirits (including denatured spirits) for analysis, testing, or other determinations to ascertain whether the provisions of law and regulations are being complied with. The tax paid on such samples removed from the premises of a plant may be refunded or credited as provided in this part.

(72 Stat. 1323, 1356, 1357; 26 U.S.C. 5008, 5201, 5203)

§ 201.83 Gauging and measuring equipment.

All gauging and measuring equipment and means required by this chapter to be furnished by the proprietor for the purpose of ascertaining the quantity, alcoholic content, gravity, and producing capacity of any materials, denaturants, mash, wort, or beer, or the quantity and alcoholic content of spirits (including denatured spirits), shall be maintained by the proprietor in accurate and readily usable condition. The assigned officer may disapprove the use of any such equipment or means if he finds it would be insufficiently accurate and the proprietor shall promptly provide accurate equipment or means in lieu of the disapproved facilities.

(72 Stat. 1320, 1358; 26 U.S.C. 5006, 5204)

ENTRY AND EXAMINATION OF PREMISES

§ 201.84 Premises to be kept accessible.

The proprietor shall furnish the assistant regional commissioner as many keys to such of the proprietor's locks on doors, gates, or other openings to and

within the premises of the plant as the assistant regional commissioner may require for internal revenue officers to gain access to the premises and any structures thereon, and such premises shall always be kept accessible to any internal revenue officer having such keys.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.85 Furnishing facilities and assistance.

On the demand of any internal revenue officer or agent, the proprietor shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on the plant premises. The proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all containers not under the control of the internal revenue officer in charge.

(72 Stat. 1357; 26 U.S.C. 5203)

CUSTODY AND SUPERVISION

§ 201.86 Supervision of operations.

Where this part requires direct supervision of an operation, the proprietor may conduct such operation at any time the assigned officer is on the premises: *Provided*, That such officer has been informed of the operation and has not advised the proprietor that the operation must be deferred in order that it may be conducted in his immediate presence. Where this part requires general supervision of an operation, the assigned officer is not required to be present on the plant premises; however, operations requiring general supervision under this part shall not be performed after regular business hours unless the proprietor has given notice thereof in writing to the assigned officer.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 201.87 Storage rooms or buildings.

Storage rooms or buildings provided on bonded premises for the storage of spirits in casks, packages, cases, or similar portable approved containers shall be in the joint custody of the assigned officer and the proprietor, shall be locked with Government locks, and shall not be unlocked or remain unlocked except when such officer is on the plant premises or the premises of an adjacent bonded wine cellar. Deposits of spirits in, or removals of spirits from, such room or building in such portable containers shall be under direct supervision of assigned officers.

(72 Stat. 1357; 26 U.S.C. 5202)

§ 201.88 Proprietor's schedule of operations.

The proprietor of each plant qualified for the production or bonded storage of spirits shall furnish the assigned officer a written schedule of operations. The schedule shall be given at least one day in advance of the operations and shall show, for the period covered by the schedule, all activities related to such production and storage (including denaturation and bottling in bond) which the provisions of this chapter require to be conducted under supervision of an

internal revenue officer or require his presence.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

§ 201.89 Denaturation of spirits.

Denaturation of spirits shall be conducted under the direct supervision of an assigned officer, or be controlled by such other methods, which may include the use of meters or other devices affording equal protection to the revenue, as the Director may approve.

(72 Stat. 1357; 26 U.S.C. 5202)

§ 201.90 Gauging.

The gauge of spirits shall be made by the proprietor unless required by this chapter to be made by an assigned officer.

(72 Stat. 1357, 1358; 26 U.S.C. 5202, 5204)

§ 201.91 Commercial gauging.

The assistant regional commissioner may, pursuant to application by the proprietor, permit the weighing and proofing of specific packages of spirits on bonded premises for purposes such as obtaining data on storage conditions or the results of special production procedures. Applications for permission to do such work shall contain sufficient information to enable the assistant regional commissioner to evaluate the merits of the request. When such applications are approved the proprietor shall in each instance, before beginning the operation, inform the assigned officer of the time and place where the work will be done.

GOVERNMENT LOCKS AND SEALS

§ 201.92 Government locks and seals.

The assistant regional commissioner shall supply all Government locks and seals to be used at plants. The keys to all Government locks shall remain at all times in the custody of an assigned officer, who will open and close all such locks. Government seals will be affixed by an assigned officer. The assigned officer may lock or require the sealing of any equipment (including tanks) on plant premises.

(72 Stat. 1353, 1357; 26 U.S.C. 5178, 5202)

§ 201.93 Preparation for Government locks and seals.

The proprietor shall equip for locking, or prepare for sealing, all buildings, rooms, and equipment on which Government locks or seals are required under this chapter. Such preparation shall include the furnishing of necessary wire, straps, and all covers and affixing of the same.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.94 Removal of Government locks and seals.

Government locks and seals shall not be removed without authorization of the assigned officer or the assistant regional commissioner except as provided in this chapter.

(72 Stat. 1357; 26 U.S.C. 5202)

SEALED CONVEYANCES FOR TRANSPORTING IN BOND

§ 201.95 Sealed conveyances.

A conveyance to be used as a sealed conveyance, shall be constructed in such

a manner that all openings may be closed and secured by Government seals, or other devices approved by the Director, in order that access cannot be gained without showing evidence of tampering. The Government seals, or other approved devices for securing the conveyance, shall be attached as soon as the conveyance is loaded for shipment.

(72 Stat. 1360; 26 U.S.C. 5206)

PENALTIES OF PERJURY

§ 201.96 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be signed by the proprietor, or other duly authorized person, under a statement that it is executed under the penalties of perjury, as defined in Subpart B.

(68A Stat. 749; 26 U.S.C. 6065)

Subpart E—Location and Use

§ 201.111 Restrictions as to location.

Plants shall not be located in any dwelling house, or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is produced, or liquors of any description are retailed, or (except as provided in § 201.115) on premises where any other business is carried on.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.112 Bonded warehouses not on production premises.

A bonded warehouse, other than one established on bonded premises of a plant qualified for production of spirits, or one contiguous to a distillery operated by the bonded warehouseman, may be established only if the need therefor is clearly shown and the prospective needs of the warehouseman will be for the bonded storage of not less than 250,000 wine gallons of spirits: *Provided*, That where commercial bonded warehouse facilities are not available in an area and it is impractical to have a warehouse of such capacity, the Director may approve the establishment of a warehouse without regard to the minimum storage requirements. The application for registration to establish a warehouse under the provisions of this section shall be accompanied by a separate written application, in triplicate, setting forth the necessity for the establishment of the warehouse, showing the approximate quantity of spirits that will be received, stored, and withdrawn annually, the probable number of depositors of spirits, and the approximate number of persons to be served from the warehouse, together with any other data or documents indicating the prospective volume of business or need for establishment. The application for registration shall not be approved if the proposed location of the warehouse would constitute a jeopardy to the revenue, satisfactory evidence of the need for establishment of the warehouse has not been submitted, or the

prospective volume of business would be insufficient to warrant the expense of supervision by internal revenue officers. The proprietor of a bonded warehouse established for a limited purpose, such as, for bulk storage only, for package storage only, or for bulk storage and denaturing only, shall not, in any manner, expand or change such activity to include any other type of operation until, pursuant to written application to make such change, he has obtained the approval of the Director.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.113 Taxpaid bottling facilities.

Facilities for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines (other than on bottling premises qualified for rectification) may be established only by (a) the proprietor of a plant qualified for the production or bonded storage of spirits, or (b) a State or political subdivision thereof. Only one such bottling facility may be established by the proprietor in conjunction with each such plant.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.114 Facilities for bottling in bond.

Facilities for the bottling in bond of spirits may be established only in a separate room or building on bonded premises by a proprietor of a plant qualified under this part to store spirits on such bonded premises in casks, packages, cases, or similar portable approved containers.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.115 Use of premises.

No business or operation shall be conducted on the premises of a plant other than those authorized to be carried on or conducted by the notice of registration of such plant.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.116 Storage rooms or buildings on bonded premises.

Facilities for the storage on bonded premises of distilled spirits in casks, packages, cases, or similar portable approved containers shall be established in a room or building used exclusively for the storage, bottling, or packaging of spirits, and activities related thereto.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.117 Continuity of premises.

The continuity of the plant shall be unbroken except for separations by public waterways, thoroughfares, or carrier rights-of-way: *Provided*, That where all parts of the plant premises are in the same general location the Director may authorize the assistant regional commissioner to approve the registration of a plant where there are other separations of plant premises if the assistant regional commissioner finds that the separated areas can be supervised economically and effectively, and the Director finds that the revenue will not be jeopardized thereby.

§ 201.118 Location of bonded and bottling premises.

Bottling premises shall not be located on the bonded premises of a plant.

Where bonded premises and bottling premises are located in the same building, doors and other openings affording intercommunication between such premises shall be permitted only where the assistant regional commissioner finds that the revenue will not be jeopardized thereby. Such doors and other openings shall be equipped for locking.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.119 General plant premises.

General premises (i.e., other than bonded premises or bottling premises) may be included as a part of a plant when so described in the notice of registration. Such general premises may not be used for any of the operations required to be conducted on bonded or bottling premises. Business offices and service facilities may be included as a part of such general premises and such premises may be utilized for the conduct of such other business as may be authorized for such premises under the provisions of section 5178(b), I.R.C.

§ 201.120 Denaturing facilities.

Facilities for denaturing spirits may be established only on the bonded premises of a plant operated by a proprietor who is authorized to produce spirits, or by a controlled or wholly-owned subsidiary (as defined in § 201.206) of such a proprietor.

(72 Stat. 1369; 26 U.S.C. 5241)

Subpart F—Qualification of Distilled Spirits Plants

§ 201.131 General requirements for registration.

A person shall not engage in the business of a distiller, bonded warehouseman, rectifier, or bottler of distilled spirits, unless he has made application for and has received notice of registration of his plant with respect to such business as provided in this part. Application for registration shall be made on Form 2607 to the assistant regional commissioner. Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof. The assistant regional commissioner may, in any instance where the outstanding notice of registration is inadequate or incorrect in any respect, require by registered or certified mail the filing of an application on Form 2607 to amend the notice of registration, specifying the respects in which amendment is required. Within 60 days after the receipt of such notice, the proprietor shall file such application.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.132 Data for application for registration.

Application on Form 2607 shall be prepared in accordance with the headings on the form, and instructions thereon and issued in respect thereto, and shall include the following:

(a) Serial number and statement of purpose for which filed.

(b) Name and principal business address of the applicant, and the location of the plant if different from the business address.

(c) Statement of the type of business organization and of the persons interested in the business, supported by the items of information listed in § 201.148.

(d) Statement of the business or businesses to be conducted.

(e) List of applicant's operating and basic permits, and of the qualification bonds (including those filed with the application) with the name of the surety or sureties for each bond.

(f) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign his name.

(g) Plat and plans (see §§ 201.154-201.159).

(h) Description of the plant (see § 201.149).

(i) List of major equipment (see § 201.147).

(j) As applicable, the following:

(1) With respect to the business of a distiller:

(i) Statement of maximum proof gallons that will be (a) produced during a period of 15 days and (b) in transit to the bonded premises. (Not required if the qualification bond is in the maximum sum.)

(ii) Statement of daily producing capacity in proof gallons.

(iii) Statement of process (see § 201.153).

(iv) Statement whether denaturing operations will be conducted.

(v) Statement of title to the bonded premises and interest in the equipment used for the production of spirits, accompanied where required by consent on Form 1602 (see §§ 201.151-152).

(2) With respect to the business of a bonded warehouseman:

(i) Statement of the maximum proof gallons that will be stored on, and in transit to, the bonded premises. (Not required if the qualification bond is in the maximum sum.)

(ii) Description of the system of storage, and statement of storage capacity (bulk, packages, and cases).

(iii) Statement whether denaturing and/or bottling-in-bond operations will be conducted.

(3) With respect to the business of a rectifier, a statement of the maximum tax the rectifier will be liable to pay under sections 5021 and 5022, I.R.C., in a 30-day period. (Not required if the qualification bond is in the maximum sum.)

(4) With respect to the business of bottling after tax determination, a statement of the name, address, and registry number of a plant qualified by the applicant for production or bonded warehousing. (Not required if the applicant is a State or political subdivision thereof, or if the plant being registered is so qualified or qualified for rectification.)

(5) With respect to any other business to be conducted on the plant premises, as provided by Subpart D, a description of such business, a list of the buildings and/or equipment to be used, and a statement as to the relationship, if any,

of such business to distilled spirits operations at the plant.

Where any of the information required by paragraph (c) or paragraph (g) is on file with the assistant regional commissioner, such information, if accurate and complete, may, by incorporation by reference thereto by the applicant, be made a part of the application for registration. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for registration such additional information as may be necessary for the assistant regional commissioner to determine whether the application for registration should be approved.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.133 Notice of registration.

The application for registration, when approved, shall constitute the notice of registration of the plant. A plant shall not be registered or reregistered under this subpart until the applicant has complied with all requirements of law and regulations relating to the qualification of the business or businesses in which the applicant intends to engage. A plant shall not be operated unless the proprietor has a valid notice of registration covering the businesses and operations to be conducted at such plant. In any instance where a bond is required to be given or a permit is required to be obtained with respect to a business or operation before notice of registration of the plant may be received with respect thereto, the notice of registration shall not be valid with respect to such business or operation in the event that such bond or permit is no longer in effect and an application for reregistration shall be filed and notice of registration again obtained before thereafter engaging in such business or operation at such plant.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.134 Maintenance of registration file.

The proprietor shall maintain his registration file in looseleaf form in complete and current condition, readily available at the plant for inspection by internal revenue officers.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.135 Powers of attorney.

The proprietor shall execute and file with the assistant regional commissioner a Form 1534; in accordance with the instructions on the form, for every person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application for registration.)

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.136 Operating permits.

Except as provided in § 201.138, every person required to file an application for registration under § 201.131 shall make application for and obtain an operating permit before commencing any of the following operations:

(a) Distilling for industrial use.

(b) Bonded warehousing of spirits for industrial use.

(c) Denaturing spirits.

(d) Bonded warehousing of spirits (without bottling) for nonindustrial use.

(e) Bottling or packaging of spirits for industrial use.

(f) Any other distilling, warehousing, or bottling operation not required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204).

Application for such operating permit shall be made on Form 2603 to the assistant regional commissioner.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.137 Data for application for operating permits.

Each application on Form 2603 shall be executed under the penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Applications on Form 2603 shall be prepared in accordance with the headings on the form, and instructions thereon and issued in respect thereto, and shall include the following:

(a) Name and principal business address of the applicant.

(b) Plant address, if different from the business address.

(c) Description of the operation to be conducted for which an operating permit must be obtained.

(d) Statement of type of business organization and of the persons interested in the business, supported by the items of information listed in § 201.148.

(e) Trade names (see § 201.146).

(f) On specific request of the assistant regional commissioner, furnish a statement showing whether any of the persons whose names and addresses are required to be furnished under the provisions of § 201.148 (a) (8) and (c) has—

(1) ever been convicted of a felony or misdemeanor under Federal or State law, (2) ever been arrested or charged with any violation of State or Federal law (convictions or arrests or charges for traffic violations need not be reported as to subparagraphs (1) and (2), if such violations are not felonies), or (3) ever applied for, held, or been connected with a permit, issued under Federal law, to manufacture, distribute, sell, or use spirits or products containing spirits, whether or not for beverage use, or held any financial interest in any business covered by any such permit, and, if so, give the number and classification of such permit, the period of operation thereunder, and state in detail whether such permit was ever suspended, revoked, annulled, or otherwise terminated.

Where any of the information required by paragraph (d) is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is made a part of the application for an operating permit. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application for an operating permit such additional information as may be necessary for the assistant regional

commissioner to determine whether the applicant is entitled to the permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.138 Exceptions to operating permit requirements.

The provisions of § 201.136 shall not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency acting for such agency.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.139 Issuance of operating permits.

Only one operating permit will be issued for a plant. Such operating permit shall designate the businesses or operations permitted thereby (including limitations with respect thereto). All of the provisions of this part relating to the performance of the operations covered by the permit shall be deemed to be included in the provisions and conditions of the permit, the same as if set out therein.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.140 Duration of permits.

Operating permits are continuing, unless automatically terminated by the terms thereof, suspended or revoked as provided in § 201.144, or voluntarily surrendered. The provisions of § 201.161 shall be deemed to be a part of the terms and conditions of all operating permits issued pursuant to this part.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.141 Posting of permits.

Operating permits shall be kept posted available for inspection at the plant.

(72 Stat. 1349, 1370; 26 U.S.C. 5171, 5271)

§ 201.142 Denial of permit.

If, on examination of an application for an operating permit (or on the basis of inquiry or investigation with respect thereto) the assistant regional commissioner has reason to believe that—

(a) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with chapter 51, I.R.C., or regulations issued thereunder; or

(b) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(c) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue, the assistant regional commissioner may institute proceedings for the denial of the application in accordance with the procedures set forth in Part 200 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.143 Correction of permits.

Where an error in an operating permit is discovered, the proprietor shall, on demand of the assistant regional commissioner, immediately return the permit for correction.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.144 Suspension or revocation.

Whenever the assistant regional commissioner has reason to believe that any person holding a permit issued under this subpart—

(a) Has not in good faith complied with the provisions of chapter 51, I.R.C., or regulations issued thereunder; or

(b) Has violated the conditions of such permit; or

(c) Has made any false statement as to any material fact in his application therefor; or

(d) Has failed to disclose any material information required to be furnished; or

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense; or

(f) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years; the assistant regional commissioner may institute proceedings for the revocation or suspension of such permit in accordance with the procedures set forth in Part 200 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.145 Rules of practice in permit proceedings.

The regulations in Part 200 of this chapter are made applicable to the procedure and practice in connection with the disapproval of any application for an operating permit required by this subpart, and in connection with the suspension, revocation, and annulment of such permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.146 Trade names.

Where a trade name is to be used in connection with the operations of a plant for which an operating permit is required, the proprietor shall list such trade name on Form 2603 (showing the business operation or operations in which such trade name will be used), and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect to such name. Where any distilling, warehousing, or bottling operation is required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203, 204), regulations issued under such Act govern the approval and use of trade names in connection with such operations. Operations shall not be conducted under a trade name until the proprietor is in possession of an operating or basic permit covering the use of such name.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.147 Major equipment.

The following items of major equipment, if on the plant premises, shall be described in the application for registration:

(a) Mash tubs and cookers (serial number and capacity).

(b) Fermenters (serial number and capacity).

(c) Tanks used in the production, storage, denaturation, rectification, bottling, and measurement of spirits (designated use (or uses), serial number, capacity, and method of gauging or measurement).

(d) Permanently installed scales and other measuring equipment (including meters).

(e) Bottling lines (list separately as to use and serial number).

(f) Stills (serial number, kind, capacity, and intended use). (The capacity shall be stated as the estimated maximum proof gallons of spirits capable of being produced every 24 hours, or (for column stills) may be represented by a statement of the diameter of the base and number of plates.)

(g) Other items of fixed equipment used in the production, storage, rectification and/or bottling of spirits, if valued at \$5,000 or more (description and use).

The description shall show, as to each item of equipment, the location thereof in the plant, and the premises (bonded or bottling) and the facility (production, storage, denaturation, or bottling on bonded premises, and rectification or bottling on bottling premises) in which it is to be used. Where any equipment is to be used in two or more facilities, it shall be identified as for multiple use, and its use in each facility shall be shown.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.148 Organizational documents.

The supporting information required by paragraph (c) of § 201.132, and paragraph (d) of § 201.137, includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of articles of incorporation and any amendments thereto.

(2) Certified true copy of the corporate charter or a certificate of corporate existence or incorporation.

(3) Certified true copy of certificate authorizing the corporation to operate in the State where the plant is located (if other than that in which incorporated).

(4) Certified extracts or digests of minutes of meetings of stockholders, showing election of directors.

(5) Certified true copy of bylaws.

(6) Certified extracts or digests of minutes of meetings of board of directors, showing election of officers.

(7) Certified extracts or digests of minutes of meetings of board of directors, authorizing certain individuals to sign for the corporation.

(8) Names and addresses of officers and directors.

(9) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having

the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him. If a corporation is wholly owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need be furnished to the assistant regional commissioner only at his request.

(2) In the case of an individual owner or partnership, name and address of every person interested in the plant, whether such interest appears in the name of the interested party or in the name of another for him.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.149 Description of plant.

The application for registration shall include a description of each tract of land comprising the plant, clearly indicating the bonded premises, the bottling premises, and any other premises to be included as part of the plant. In the case of a plant producing spirits, where the premises subject to lien under section 5004(b), I.R.C., are not coextensive with the bonded premises, the tract of land on which any building containing any part of the bonded premises is situated shall also be described. The description of each tract of land subject to lien under section 5004(b), I.R.C., shall be by courses and distances, in feet and inches (or hundredths of feet), with the particularity required in conveyances of real estate. If any area (or areas) of the plant is to be alternated between bonded and bottling premises, as provided in § 201.175, each such area shall be described, and shall be identified by number or letter. The description of denaturing facilities (and equipment) shall show the manner of segregation of such facilities from other facilities which prevents contamination of undenatured spirits. Each building and outside tank shall be described (location, size, construction, arrangement, and means of protection and security), referring to each by its designated number or letter, and use. If a plant consists of a room or floor of a building, a description of the building in which the room or floor is situated and its location therein shall be given.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.150 Registry of stills.

The provisions of Part 196 of this chapter are applicable to stills located on plant premises. The listing of stills for distilling in the application for registration, and the approval of the application for registration, shall constitute registration of such stills.

(72 Stat. 1349, 1355; 26 U.S.C. 5172, 5179)

§ 201.151 Statement of title.

The application for registration shall include a statement setting forth the name and address of the owner in fee

of the lot or tract of land subject to lien under section 5004(b)(1), I.R.C., the buildings thereon, and the equipment used for the production of spirits. If the applicant is not the owner in fee of such property, or if such property is encumbered by mortgage or other lien, the application for registration shall be accompanied by a consent on Form 1602, as provided in § 201.152, unless indemnity bond on Form 3A is filed, as provided in § 201.200.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.152 Consent on Form 1602.

Consents on Form 1602, where required by this subpart, shall be executed by the owner (if other than the proprietor) of property subject to lien under section 5004(b)(1), I.R.C., and by any mortgagee, judgment creditor, or other person having a lien on such property, duly acknowledging that the property may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States, for taxes on distilled spirits produced thereon and penalties relating thereto, shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of such property, or any part thereof, the title to the same shall vest in the United States, discharged from such mortgage, judgment, or other encumbrance.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

§ 201.153 Statement of process.

The statement of process in the application for registration shall set forth a step-by-step description of the process employed to produce spirits, commencing with the treating, mashing, or fermenting of the raw materials or substances and continuing through each step of the distilling, redistilling, purifying and refining processes to the production gauge, and showing the kind and approximate quantity of each material or substance used in producing, purifying, or refining each type of spirits.

(72 Stat. 1349; 26 U.S.C. 5172)

PLAT AND PLANS

§ 201.154 General requirements.

The proprietor shall submit, as part of his application for registration, a plat of the premises and plans, in triplicate, as required by this subpart.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.155 Preparation.

Each plat and floor plan shall be drawn to a scale of not less than $\frac{1}{100}$ inch per foot and shall show the cardinal points of the compass. Each sheet of the drawings shall—

(a) Bear a distinctive title;
(b) Be numbered in consecutive order, the first sheet being designated number 1; and

(c) Have a clear margin of not less than 1 inch on each side and have outside measurements of 15 by 20 inches: *Provided*, That the assistant regional commissioner may authorize the use of larger sheets if they can be satisfactorily filed.

Plats and plans shall be submitted on tracing cloth, sensitized linen, or blue-print paper, and may be original drawings, or, if clear and distinct, reproductions made by lithoprint, ditto, or ozalid processes. The Director may approve other materials and methods which he finds are equally acceptable.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.156 Depiction of plant.

The plat shall show the boundaries of the plant, and delineate separately the portions thereof comprising the bonded premises, the bottling premises, and any other premises to be included as a part of the plant, in feet and inches (or hundredths of feet). The delineation of these premises shall agree with the description given in the application for registration. The plat shall show (a) all buildings on the plant premises, (b) all basic equipment (including tanks and stills) not located in buildings, and (c) all driveways, public thoroughfares, and railroad rights-of-way contiguous to, connecting, or separating the plant premises. Each building, enclosed area, and outside tank shall be identified. Each pipeline for the conveyance of spirits to and from the premises of the plant, and between bonded and bottling premises, shall be shown on the plat in blue, and each pipeline for the conveyance of denatured spirits to and from the premises of the plant shall be shown on the plat in green: *Provided*, That in lieu of such colors, the pipelines may be identified by symbols which permit ready identification of their uses. The purpose for which such pipelines are used and the points of origin and termination shall be indicated on the plat. Where premises on which spirits, wines, or beer are manufactured, stored, or sold are contiguous to a plant, the plat shall show the relative location of the plant and such contiguous premises, and all pipelines and other connections between them (public utility pipelines and similar connections excepted). The outline of such contiguous premises and of the plant shall be shown in contrasting colors. Where a plant consists of less than an entire building, the plat shall show the building, and the land on which such building is situated. Where a plant consists of, or includes, one or more floors or rooms of a building that is not wholly included in the plant, the floors or rooms so used shall be shown on a floor plan. Each floor plan shall show the location and dimensions of the floors or rooms, the means of ingress and egress, and, insofar as required on plats by this section, pipelines and contiguous premises. Where construction of floors or rooms is identical, a typical plan of such floors or rooms will be acceptable. Where the floor plan shows the entire plant and includes all the information required by a plat, such plan may be accepted in lieu of a plat.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.157 Flow diagrams.

Flow diagrams (plans) shall be submitted reflecting the production processes on bonded premises. The flow dia-

gram shall show major equipment (identified as to use) in its relative operating sequence, with essential connecting pipelines (appropriately identified by color) and valves. The flow diagram shall include the entire closed distilling system. Minor equipment (such as pumps, pressure regulators, rotometers) need not be shown. The direction of flow through the pipelines shall be indicated by arrows.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.158 Certificate of accuracy.

The plat and plans shall bear a certificate of accuracy in the lower right-hand corner of each sheet, signed by the proprietor, substantially as follows:

(Name of proprietor)

(Distilled spirits plant No.)

(Address)
Accuracy certified by:

(Name and capacity—for the proprietor)
Sheet No. -----, Date -----

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.159 Revised plats and plans.

Any revised plat or plan sheet shall bear the same number as the sheet superseded, but shall be given a new date. Any additional plat or plan sheet shall be given a new number in consecutive order, or shall be otherwise numbered and lettered in such manner as will permit the filing of the plat or plan in proper sequence.

(72 Stat. 1349; 26 U.S.C. 5172)

CHANGES AFTER ORIGINAL QUALIFICATION

§ 201.160 Application for amended registration.

Where there is a change with respect to the information shown in the notice of registration, the proprietor shall submit, within 10 days of such change (except as otherwise provided in this subpart), an application on Form 2607 for amended registration. Such application shall set forth, on sheets appropriately numbered or otherwise identified, the information necessary to make the notice of registration accurate and current. Where the change affects only pages or parts of pages of the notice of registration, such complete pages shall be submitted as will enable the replacement of the pages affected and maintenance of the file as provided in § 201.134.

(72 Stat. 1349; 26 U.S.C. 5171, 5172)

§ 201.161 Automatic termination of permits.

(a) *Permits not transferable.* Operating permits issued under this part shall not be transferred. In the event of the lease, sale, or other transfer of such a permit, the permit shall thereupon automatically terminate.

(b) *Corporations.* In the case of a corporation holding an operating permit under this part, if actual or legal control of the permittee corporation changes, directly or indirectly, whether by reason of change in stock ownership or control (in the permittee corporation or in any other corporation), by operation of law,

or in any other manner, the permittee shall, within 10 days of such change, give written notice thereof, executed under the penalties of perjury, to the assistant regional commissioner; such permit may remain in effect with respect to the operation covered thereby until the expiration of 30 days after such change, whereupon such permit shall automatically terminate: *Provided*, That if within such 30-day period an application for a new permit covering such operation is made, then the outstanding operating permit may remain in effect with respect to the continuation of the operation covered thereby until final action is taken on such application. When such final action is taken, such outstanding operating permit shall thereupon automatically terminate.

(c) *Basic permits.* The termination of basic permits is governed by the provisions of 27 CFR Part 1.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.162 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file application to amend the registration and to amend the operating and/or basic permit. In addition, he shall furnish consent of surety on Form 1533 or new bond or bonds covering the use of the new name, and shall conform the sign to the provisions of § 201.652. Operations may not be conducted under the new name prior to approval of the amended registration and issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.163 Change of trade name.

Where there is to be a change in, or addition of, a trade name, the proprietor shall file application to amend his operating and/or basic permit; a new bond or consent of surety will not be required. Operations may not be conducted under the new trade name prior to issuance of the amended permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 201.164 Change in proprietorship.

(a) *General.* Where there is a change in the proprietorship of a plant qualified under this part, the outgoing proprietor shall comply with the requirements of § 201.176, and the successor shall, before commencing operations, apply for and obtain the required permits, file the required bonds, and file application for and receive notice of registration of the plant in the same manner as a person qualifying as the proprietor of a new plant, except that he may adopt the plats and plans of the predecessor by incorporation by reference thereto on Form 2607. Spirits may be transferred from an outgoing proprietor of a plant to a successor in the manner provided in § 201.174.

(b) *Fiduciary.* If the successor to the proprietorship of a plant is an administrator, executor, receiver, trustee, assignee or other fiduciary, he shall comply with the provisions of paragraph (a) except that he may, in lieu of filing a new bond, furnish consent of surety extending the terms of his predecessor's bond, and he may also incorporate by reference in his application for registration on

Form 2607 any pertinent information contained in his predecessor's notice of registration. The fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing his qualification as such fiduciary. The effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.165 Adoption of plat and plans.

The adoption by a successor of the plat and plans of his predecessor shall be in the form of a certificate to be made a part of the application for registration, in which shall be set forth the identity of the plant and of the predecessor, a description (by sheet number and title) of each plat or plan sheet adopted, and a certification that the adopted plat and plans accurately depict the premises.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.166 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety, wherein the surety and the surviving partner agree to remain liable on the bond given on Form 2601, is filed. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 201.164(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.167 Change in location.

Where there is a change in the location of the plant, the proprietor shall file applications to amend the registration of his plant and his operating and/or basic permit, new plat and plans, and either a new bond or a consent of surety on Form 1533. Operations of the plant may not be commenced at the new location prior to approval of the amended registration and issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5173, 5271)

§ 201.168 Changes in premises.

Where bonded premises, bottling premises, or any other premises included as a part of the plant are to be extended or curtailed, the proprietor shall file an application to amend the registration of his plant (including amended plat and plans). Facilities to be included by extension or to be excluded by curtailment

shall not, prior to approval of the amended registration, be used for other than previously approved purposes.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.169 Change in operations.

Where the proprietor proposes to conduct a new business or operation involving spirits, he shall file applications to amend the registration of his plant and his operating and/or basic permit. If he desires to engage, on the plant premises, in a business, other than the business of a distiller, bonded warehouseman, rectifier, or bottler, he shall submit application to amend the registration of his plant to include the information required under § 201.132(j) (5). The additional operation or business may not be carried on prior to approval of the amended registration and (if required) issuance of the amended permit.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

§ 201.170 Change in process.

Where the proprietor desires to produce a new product or make a change in a production process, on bonded premises, which would affect the designation, or substantially affect the character of his product, he shall file an application to amend the registration of his plant to include the amended or new statement of process. The new or changed process may not be used prior to approval of the amended registration.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.171 Changes in construction and use of buildings and equipment.

Where a material change is to be made (a) in the buildings or facilities of a plant (other than extension or curtailment of premises covered by § 201.168), (b) in the use of any portion of a plant, or (c) with respect to plant equipment, which affects the accuracy of the notice of registration (including the plat and plans), the proprietor shall, before making such change, secure approval thereof, pursuant to a written application, in triplicate, submitted to the assistant regional commissioner through the assigned officer, if any. The application shall describe the proposed change specifically and in detail. The proprietor may be required to submit drawings, photographs, or diagrams of the proposed change. The change shall be made under the supervision of an internal revenue officer, if the assistant regional commissioner considers such supervision necessary. The change shall be reflected in the next amendment of the notice of registration (including the plat and plans), unless the assistant regional commissioner requires the immediate filing of an application for amendment. All changes not affecting the accuracy of the notice of registration (including plat and plans) may be made on approval of the assigned officer. The proprietor may make emergency repairs without prior notification to the assigned officer, but where such emergency repairs are made, the proprietor shall promptly notify such officer and file with him a report thereof in triplicate.

(72 Stat. 1349; 26 U.S.C. 5172)

§ 201.172 Change of title.

Where there is a change in the title to any property subject to lien under section 5004(b) (1), I.R.C., the proprietor shall, before continuing operations, file an application to amend the registration of his plant, and, where required by this part, a consent on Form 1602 or, in lieu thereof, an indemnity bond on Form 3A. In addition, the assistant regional commissioner may require the proprietor to file a consent of surety on Form 1533 or a new qualification bond.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

§ 201.173 Encumbrance.

Where any of the property subject to lien under section 5004(b) (1), I.R.C., becomes encumbered by any judgment, or other lien, the proprietor shall thereupon file (a) an application to amend the registration of his plant, (b) a consent on Form 1602 or an indemnity bond on Form 3A (if such bond in sufficient penal sum is not on file), and (c) consent of surety on Form 1533 or a new qualification bond: *Provided*, That where such property is to be voluntarily subjected to an encumbrance, the documents shall be filed and approved before the property is encumbered.

(72 Stat. 1349; 26 U.S.C. 5172, 5173)

OPERATIONS BY ALTERNATING PROPRIETORS

§ 201.174 Procedure for alternating proprietors.

(a) *General*. A plant, or any part thereof which is suitable for qualification as a separate plant, may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas or facilities, or combination thereof, which will be alternated, and shall be accompanied by special plats designating the parts of the plant which are to be alternated. A special plat shall be submitted for each arrangement, other than that reflected by the basic plat, under which the premises will be operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated pursuant to approval by the assigned officer of the proprietors' applications on Form 2610. Any transfer of spirits from the outgoing proprietor to the incoming proprietor shall be indicated on Form 2610 filed by each proprietor. Operation of production facilities on bonded premises by an alternating proprietor shall be for one or more calendar days.

(b) *Production facilities*. Distilling materials and unfinished spirits in any production facilities to be alternated shall be processed to completion by the outgoing proprietor unless transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor. Denatured spirits shall be

removed from production facilities by the outgoing proprietor unless transferred to the incoming proprietor or retained in tanks under Government lock. Where denatured spirits are to be retained in tanks, the outgoing proprietor shall execute a consent of surety on Form 1533 to continue liability on the qualification bond for the tax on such spirits retained in the facilities, notwithstanding the change in proprietorship.

(c) *Bonded warehousing facilities*. Spirits contained in any bonded warehousing facility to be alternated shall be transferred to the incoming proprietor on Form 236 (accompanying forms not required). The outgoing proprietor shall execute a consent of surety on Form 1533 to continue in effect the qualification bond whenever operation of the facility is to be resumed by him following suspension of operations by an alternate proprietor.

(d) *Bottling premises*. Operations on bottling premises shall be completely finished and all spirits and wines removed from such premises prior to the change in proprietorship: *Provided*, That (1) spirits and wines on hand, including those in the process of rectification, may be transferred to the incoming proprietor, or (2) the spirits and wines may be retained, under lock, but in such case the outgoing proprietor shall (unless qualification bond is not required for the plant) execute a consent of surety on Form 1533 to continue the liability on the qualification bond for the tax on such spirits and wines retained on the premises notwithstanding the change in proprietorship. Products subject to tax under the provisions of sections 5021 and 5022, I.R.C. (including partially rectified products) which are being transferred to a successor shall be taxpaid by the outgoing proprietor.

(e) *Records*. Each proprietor shall maintain separate records and submit separate reports. In the case of spirits in bonded warehousing facilities, the deposit records for the outgoing proprietor shall be used for the incoming proprietor. All transfers of distilling materials, spirits, and wines shall be reflected in the records of each proprietor.

(72 Stat. 1349, 1370; 26 U.S.C. 5172, 5271)

ALTERNATE OPERATIONS

§ 201.175 Alternating bottling facilities between bonded and bottling premises.

Bottling facilities may be used either for the bottling in bond of spirits or for the rectification and bottling, or bottling, of taxpaid spirits where the proprietor has filed, and the assistant regional commissioner has approved, (a) an application for registration, Form 2607, to cover such operation, and (b) a special plat to designate the premises which are to be alternated. When areas of the bottling facilities are to be alternated, the proprietor shall file a drawing or diagram clearly depicting all rooms, tanks, and spirit lines which are susceptible to alternation, in their relative operating sequence; all such rooms and equipment shall be individually identified by number or letter. Once such qualifying documents have been approved, the bottling

facilities or parts thereof (identified by the numbers or letters shown on the drawing or diagram) may be alternated pursuant to approval by the assigned officer of the proprietor's application on Form 2610, after all in-bond spirits, or taxpaid spirits and other ingredients used in rectifying processes (if any), as the case may be, are removed from the premises or part thereof to be alternated in opposite status.

(72 Stat. 1349; 26 U.S.C. 5172)

PERMANENT DISCONTINUANCE OF BUSINESS

§ 201.176 Notice of permanent discontinuance.

Where the proprietor permanently discontinues any or all of the businesses listed in his notice of registration, he shall, after completion of the operations, file a Form 2607 to cover such discontinuance. Form 2607 shall be accompanied (a) by all permits issued to the proprietor under this subpart covering the discontinued operations, and by his request that such permits be canceled; (b) by the proprietor's written statement disclosing, as applicable, whether (1) all spirits (including denatured spirits), indicia bottles, strip stamps, and other pertinent items have been lawfully disposed of, (2) any spirits (including denatured spirits), indicia bottles, or strip stamps are in transit to the premises, (3) all approved applications for transfer of spirits (including denatured spirits) to the premises have been secured and returned to the assistant regional commissioner for cancellation; and (c) by pertinent monthly reports covering the discontinued operations (each such report shall be marked "Final Report").

(72 Stat. 1349; 26 U.S.C. 5172, 5271)

Subpart G—Bonds and Consents of Surety

§ 201.191 General.

Every person intending to commence or to continue the business of a distiller, bonded warehouseman, or rectifier, shall file bond, Form 2601, as prescribed in this subpart, with the assistant regional commissioner, at the time of filing the original application for registration of his plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regulations relating to the duties and business of a distiller, bonded warehouseman, or rectifier, as the case may be (including the payment of taxes imposed by chapter 51, I.R.C.), and shall pay all penalties incurred or fines imposed on him for violation of any such provisions. The assistant regional commissioner may require, in connection with any bond on Form 2601, a statement, executed under the penalties of perjury, as to whether the principal or any person owning controlling or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in § 201.198(a) or has been convicted of any offense set forth in § 201.198(b). In the event the above statement contains an affirmative answer, the appli-

cant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. Once every four years, and as provided in § 201.210, a new bond, Form 2601, shall be executed and filed in accordance with the provisions of this subpart. No person shall commence or continue the business of a distiller, bonded warehouseman, or rectifier, unless he has a valid bond, Form 2601 (and consent of surety, if necessary), as required in respect of such business by this part.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.192 Additional condition of distiller's bond.

In addition to the requirements of § 201.191, the distiller's bond shall be conditioned that he shall not suffer the property, or any part thereof, subject to lien under section 5004(b) (1), I.R.C., to be encumbered by any lien during the time in which he shall carry on such business, except that this condition shall not apply during the term of an indemnity bond given under the provisions of § 201.200.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.193 Additional conditions of bonded warehouseman's bond.

In addition to the requirements of § 201.191, the bonded warehouseman's bond shall be conditioned—

(a) On the withdrawal of spirits from storage on bonded premises within the time prescribed for the determination of tax under section 5006(a) (2), I.R.C., and

(b) On payment of the tax now or hereafter in force, except as otherwise provided by law, on all spirits withdrawn from storage on bonded premises.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.194 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in Treasury Department Form 356—Revised. Powers of attorney and other evidence of appointment of agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 201.195 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650; 6 U.S.C. 15)

§ 201.196 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§ 201.197 Authority to approve bonds and consents of surety.

Assistant regional commissioners are authorized to approve all bonds and consents of surety required by this part.

§ 201.198 Disapproval of bonds or consents of surety.

The assistant regional commissioner may disapprove any bond or consent of surety submitted in respect to the business of a distiller, bonded warehouseman, or rectifier, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

Further, no bond of a distiller shall be approved unless the assistant regional commissioner is satisfied that the situation of the land and building which will constitute his bonded premises (as described in his application for registration, Form 2607) is not such as would enable the distiller to defraud the United States, and unless: (1) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land subject to lien under section 5004(b) (1), I.R.C.; or (2) the distiller files a consent, Form 1602, of the owner of the fee, and of any mortgagee, judgment creditor, or other person having a lien thereon, in accordance with the provisions of §§ 201.151 and 201.152; or (3) the distiller files an indemnity bond, Form 3A, in accordance with the provisions of § 201.200.

(72 Stat. 1349; 1394; 26 U.S.C. 5173, 5551)

§ 201.199 Appeal to Director.

Where a bond or consent of surety is disapproved by the assistant regional commissioner, the person giving the bond may appeal from such disapproval to the Director, who will hear such appeal. The decision of the Director shall be final.

(72 Stat. 1394; 26 U.S.C. 5551)

§ 201.200 Indemnity bond, Form 3A.

A proprietor of a plant qualified for the production of spirits may furnish bond on Form 3A to stand in lieu of future liens imposed under section 5004(b) (1), I.R.C., and no lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus by reason of distilling done during any period included within the term of any such bond. Where an indemnity bond has been furnished on Form 3A in respect of a plant, the requirements of this part relating to the filing of consents on Forms 1602 and

bonds on Forms 1617 are not applicable in respect to such plant.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.201 Indemnity bond conditioned to stand in lieu of prior liens.

Where a lien is imposed on the distiller's property under section 5004(b) (1), I.R.C., or where any similar lien has been imposed under prior provisions of internal revenue law, the distiller may, pursuant to application to, and approval by, the assistant regional commissioner, file consent, Form 2602, to further condition the bond, Form 3A, furnished under the provisions of § 201.200, to stand in lieu of such lien or liens and to indemnify the United States for the payment of all taxes and penalties which otherwise could be asserted against such property by reason of such lien or liens. When a consent on Form 2602 has been accepted and approved by the assistant regional commissioner, such lien or liens shall be held to be extinguished. The assistant regional commissioner will not accept or approve such consent, Form 2602, if there is any pending litigation or outstanding assessment with respect to such taxes or penalties, or if he has knowledge of any circumstances indicating that such consent is tendered with intent to evade payment or defeat collection of any tax or penalty.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.202 Indemnity bond in case of judicial sale.

Where any distillery is sold at judicial or other sale in favor of the United States, an indemnity bond on Form 3A, in lieu of consent on Form 1602, may be taken by the assistant regional commissioner, and the person giving such bond may be allowed to operate such distillery during the existence of the right of redemption from such sale, on complying with all the other provisions of law and of this part.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.203 Indemnity bond for changes in buildings and equipment.

Where buildings on the bonded premises of a plant, or on premises which have been eliminated from the bonded premises, are to be demolished or altered in such a manner as to decrease the value of the property, and a lien for taxes exists on such property under section 5004(b)(1), I.R.C., or where distilling equipment or apparatus on which a lien exists under section 5004(b)(1), I.R.C., is to be removed permanently, without adding property that will become a fixture in law of an equal or greater value than the property to be demolished, altered, or removed, the proprietor shall file with the assistant regional commissioner an indemnity bond on Form 1617. Such bond shall be in a penal sum equal to the appraised value of the property to be demolished, altered, or removed, or equal to the excess in value of the property to be demolished, altered, or removed over the value of the property to be substi-

tuted therefor: *Provided*, That no indemnity bond Form 1617 will be required if such appraised value or difference in value, as the case may be, is less than \$5,000: *And provided further*, That no indemnity bond on Form 1617 will be required to cover the removal of equipment from the bonded premises of one plant to the bonded premises of another plant, if the two premises are controlled by the same interests. The appraisal shall be at the expense of the proprietor unless waived by the assistant regional commissioner or unless made by internal revenue officers.

(72 Stat. 1317, 1349; 26 U.S.C. 5004, 5173)

§ 201.204 Combined operations bond—distilled spirits plant.

Any proprietor who would otherwise be required to give more than one of the bonds listed in § 201.208 (a), (b), and (c), shall, in lieu thereof (except as provided in §§ 201.205 and 201.206), give a single bond on Form 2601. Bonds given under this section shall contain the terms and conditions of the bonds in lieu of which they are given.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.205 Combined operations bond—distilled spirits plant and adjacent bonded wine cellar.

Any person intending to commence or continue business as proprietor of a bonded wine cellar, under the provisions of Part 240 of this chapter, and of an adjacent plant qualified for the production of spirits shall, in lieu of such of the bonds listed in § 201.208 (a), (b), and (c), as would otherwise be required for his plant, and the bonded wine cellar bond required under the provisions of the first sentence of section 5354, I.R.C., give a single bond on Form 2601 to cover all such operations. Bonds given under

this section shall contain the terms and conditions of the bonds in lieu of which they are given.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.206 Blanket bond.

Any person (including, in the case of a corporation, controlled or wholly owned subsidiaries) operating more than one plant in a region may give a blanket bond on Form 2601 covering the operation of any two or more of such plants, and any bonded wine cellars which are adjacent to such plants and which otherwise could be covered by a combined operations bond. For the purpose of this section, a controlled subsidiary is a corporation where more than 50 percent of the voting shares is owned by the parent corporation. Bonds given under this section shall be in lieu of the bonds listed in § 201.208 (a), (b), (c), and (d), as the case may be, and shall contain the terms and conditions of such bonds. Where bond on Form 2601 covers the operations of more than one corporation, each corporation shall be shown as principal, and the bond shall be signed for each corporation.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.207 Liability under combined operations and blanket bonds.

The total amount of any combined operations or blanket bond shall be available for the satisfaction of any liability incurred under the terms or conditions of such bond.

(72 Stat. 1349; 26 U.S.C. 5173)

§ 201.208 Bonds and penal sums of bonds.

The bonds, and the penal sums thereof, required by this subpart, are as follows:

Bond	Penal sum		
	Basis	Minimum	Maximum
(a) Distiller's, Form 2601.....	The amount of tax on spirits produced in his distillery during a period of 15 days.	\$5,000	\$100,000
(b) Bonded Warehouseman's, Form 2601:			
(1) General.....	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	200,000
(2) Limited to storage of not over 500 wooden packages, and to a total of not over 50,000 proof gallons.	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	50,000
(3) Limited—to storage of denatured spirits, denaturation of spirits, and storage of not to exceed 100,000 proof gallons of spirits prior to denaturation.	The amount of tax on spirits stored on such premises and in transit thereto.	5,000	100,000
(c) Rectifier's, Form 2601.....	The amount of tax the rectifier will be liable to pay in a period of 30 days under sections 5021 and 5022, I.R.C.	1,000	100,000
(d) Combined Operations, Form 2601:			
(1) Distiller and bonded warehouseman.	Sum of penal sums of bonds in lieu of which given.	10,000	200,000
(2) Distiller and rectifier.....	Sum of penal sums of bonds in lieu of which given.	6,000	200,000
(3) Bonded warehouseman and rectifier.	Sum of penal sums of bonds in lieu of which given.	6,000	250,000
(4) Distiller, bonded warehouseman, and rectifier.	Sum of penal sums of bonds in lieu of which given.	11,000	250,000
(5) Distiller and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	6,000	150,000
(6) Distiller, bonded warehouseman, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	11,000	250,000
(7) Distiller, rectifier, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	7,000	250,000
(8) Distiller, bonded warehouseman, rectifier, and bonded wine cellar.	Sum of penal sums of bonds in lieu of which given.	12,000	300,000

Bond	Penal sum		
(e) Blanket bond, Form 2601.....	The penal sum shall be calculated in accordance with the following table:		
	Total penal sums as determined under (a), (b), (c), and (d)	Requirements for penal sum of blanket bond	
	Not over \$300,000.....	100 percent.	
	Over \$300,000 but not over \$600,000.....	\$300,000 plus 70 percent of excess over \$300,000.	
	Over \$600,000 but not over \$1,000,000	\$510,000 plus 50 percent of excess over \$600,000.	
	Over \$1,000,000 but not over \$2,000,000.....	\$710,000 plus 35 percent of excess over \$1,000,000.	
	Over \$2,000,000.....	\$1,060,000 plus 25 percent of excess over \$2,000,000.	
	Penal sum		
	Basis	Minimum	Maximum
(f) Indemnity, Form 3A.....	Appraised value of property.....		\$300,000
(g) Indemnity, Form 1617.....	Decrease in value of property.....	\$5,000	300,000

(68A Stat. 847, 72 Stat. 1349, 1352; 26 U.S.C. 7102, 5173, 5174, 5175)

§ 201.209 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1349, 1352, 1394; 26 U.S.C. 5173, 5174, 5551)

NEW OR SUPERSEDING BONDS

§ 201.210 General.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the assistant regional commissioner, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 201.215, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall, except as may be provided in § 201.212, file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1349, 1352, 1353, 1394; 26 U.S.C. 5173, 5174, 5175, 5176, 5551)

§ 201.211 New or superseding bond, Form 2601.

Where any bond on Form 2601 is not renewed, as required in § 201.191, or

where a new or superseding bond, Form 2601, is not given as required in § 201.210, the principal shall discontinue forthwith the business to which such bond relates.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5174, 5175, 5176)

§ 201.212 New or superseding bond, Form 3A.

Where a new or superseding bond, Form 3A, is not given as required in § 201.210, the principal shall discontinue forthwith the business of a distiller unless he is the owner in fee, unencumbered, of the property covered by the bond, or he files the consent of the owner or encumbrancer on Form 1602, as required in § 201.152.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

TERMINATION OF BONDS

§ 201.213 Termination of bond, Form 2601.

Bond, Form 2601, is a quadrennial bond and, therefore, on expiration of the four-year period for which it is given automatically terminates as to any spirits and/or wines which are produced, rectified, deposited, or in transit to the bonded premises or bonded wine cellar, as the case may be, wholly subsequent to such period. Such bonds may also be terminated as to future production, rectification, or deposits, as the case may be, prior to the expiration of the four-year period for which given (a) pursuant to application of the surety as provided in § 201.215, (b) on approval of a superseding bond, or (c) on discontinuance of business by the principal.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5175, 5176)

§ 201.214 Termination of indemnity bond, Form 3A.

Indemnity bonds (Form 3A) run for an indefinite period. Such bonds may be terminated as to liability for future operations of the distillery, (a) pursuant to application by the surety as provided in § 201.215, (b) on approval of a superseding bond, (c) on discontinuance of business by the principal, (d) on applica-

tion of the distiller if he is the owner in fee, unencumbered, of the property covered by the bond or (e) on application of the distiller if he files the consent of the owner or encumbrancer on Form 1602, as required in § 201.152.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

§ 201.215 Application of surety for relief from bond.

A surety on any bond given on Form 2601 or 3A may at any time in writing notify the principal and the assistant regional commissioner in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the assistant regional commissioner. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a statement, executed under the penalties of perjury, that such power of attorney is on file with the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. The surety shall also file with the assistant regional commissioner an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 201.216.

(72 Stat. 1349, 1352, 1353; 26 U.S.C. 5173, 5174, 5175, 5176)

§ 201.216 Relief of surety from bond.

(a) *Bond, Form 2601.* Where a bond, Form 2601, has automatically expired, as provided in § 201.213, or where the surety has filed application for relief from liability, as provided in § 201.215, and a new or superseding bond has been filed, the surety shall be relieved of future liability with respect to production, rectification, and deposits wholly subsequent to the effective date of the new or superseding bond. Notwithstanding such relief, the surety shall remain liable for the tax on all distilled spirits or wines produced or rectified, or for other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety shall, in addition to the continuing liabilities above specified, remain liable under the bond for all spirits or wines on hand or in transit to the bonded premises or bonded wine cellar, as the case may be, on the date of expiration, or the date named in the notice, as the case may be, until all such spirits or wines have been lawfully disposed of, or a new bond has been filed by the principal covering the same.

(b) *Bond, Form 3A.* Where the surety on a bond given on Form 3A has applied for relief from liability under the provisions of § 201.215, the surety shall be relieved from liability for all spirits produced wholly subsequent to the date specified in the notice, or the effective date of a superseding bond, if one

is given. Notwithstanding such relief, the surety shall remain liable for all distilled spirits produced while such bond was in force and effect and, if a consent on Form 2602 has been accepted, on all spirits produced on the premises prior to the effective date of the bond, until it is established to the satisfaction of the assistant regional commissioner that such spirits have been taxpaid or that the producer thereof has been relieved from liability for payment of such tax under the provisions of chapter 51, I.R.C.

(c) **Bond, Form 1617.** The surety on a bond given on Form 1617 shall be relieved from his liability when the bond has been canceled as provided for in § 201.218.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

§ 201.217 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 201.195, shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

§ 201.218 Cancellation of indemnity bond.

Any indemnity bond will be canceled by the assistant regional commissioner, on application by the principal or surety, if he determines that the liability for which such bond was given has ceased to exist. Liability under any bond on Form 1617, given under the provisions of this part or under any other prior provisions of law or regulation, will be deemed to have ceased to exist: (a) When a superseding bond is approved; (b) when the proprietor furnishes a consent, Form 2602, on an indemnity bond, Form 3A, as provided in § 201.201; or (c) when it is established to the satisfaction of the assistant regional commissioner that all spirits produced, while the property covering which the indemnity bond was filed formed a part of the distillery premises and equipment, have been taxpaid or that the producer thereof has been relieved from liability for payment of such tax under the provisions of chapter 51, I.R.C.

(72 Stat. 1317, 1349, 1353; 26 U.S.C. 5004, 5173, 5176)

Subpart P—Losses After Tax Determination

§ 201.481 Losses after tax determination.

In the case of spirits lost after determination of tax and prior to completion

of physical removal from bonded premises, the tax thereon may, pursuant to claim filed in accordance with subpart C, be abated, remitted, or, without interest, refunded to the proprietor of the bonded premises where the loss occurred, provided the tax would not, by reason of the provisions of section 5008(a)(1), I.R.C., have been collectible if such loss had occurred on bonded premises prior to determination of tax. The loss shall not be allowable if it occurred after the expiration of the bonding period unless it occurred in the course of physical removal of the spirits immediately after such time. This section is not applicable to any loss allowable under any other provision of this subpart or which, except for the limitations of § 201.485, would be so allowable.

(72 Stat. 1323; 26 U.S.C. 5008)

LOSSES OF SPIRITS WITHDRAWN FROM BOND FOR RECTIFICATION OR BOTTLING

§ 201.482 Allowable losses.

Where spirits withdrawn from internal revenue bond on payment or determination of tax, or from customs bond on payment of tax for rectification or bottling are lost before the completion of the bottling and casing or other packaging of such spirits for removal from the bottling premises of the plant to which removed from bond, the tax imposed on such spirits under section 5001(a)(1), I.R.C., may be abated, remitted, or, without interest, refunded to the proprietor who so withdrew the spirits for removal to his bottling premises, if it is established to the satisfaction of the assistant regional commissioner that—

(a) Such loss occurred (1) by reason of accident while being removed from bond to bottling premises, or (2) by reason of flood, fire, or other disaster, or

(b) Such loss occurred by reason of, and was incident to, authorized rectifying, packaging, bottling, or casing operations (including losses by leakage or evaporation occurring during removal from bond to the bottling premises, and during storage on bottling premises pending rectification or bottling).

Abatement, remission, or refund of tax shall not be made in respect of the losses described in this section to the extent that the claimant is indemnified or recompensed for the tax, and in the case of the losses described under paragraph (b) of this section, abatement, remission, or refund shall not be made in excess of the limitations set forth in this subpart. No allowance is made in section 5008(c), I.R.C., in respect to loss of spirits by theft. Spirits lost by theft in transit to, or while on, bottling premises shall be reflected as losses by theft in the records and reports prepared by the proprietor but shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C. Spirits used up in bona fide analysis and testing on bottling premises shall be considered as lost by reason of, and incident

to, authorized operations, within the meaning of this section. Spirits removed as samples from the bottling premises before completion of bottling and casing or other packaging of such spirits for removal from the bottling premises shall be reflected as proprietor samples or Government samples in the records and reports prepared by the proprietor, and shall be excluded from the quantities for which claims are filed pursuant to section 5008(c), I.R.C.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.483 Application for withdrawal of spirits from bond.

A proprietor of bottling premises is not eligible to obtain abatement, remission, or refund in respect to the losses of spirits described in § 201.482 unless he withdrew the spirits on payment or determination of tax directly from bond to his bottling premises. When spirits are to be so withdrawn from internal revenue bond the proprietor of the bottling premises shall prepare and submit Form 2608 as provided in Subpart W. Withdrawals of spirits from customs custody on payment of the internal revenue tax shall be in accordance with the applicable customs regulations.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.484 Losses by accident or disaster.

Where spirits are lost by reason of the conditions stated in § 201.482(a), the proprietor shall, as soon as possible after the loss occurs, report the loss to the assigned officer and determine the actual quantity lost, and record such loss in his records. Claims covering any such losses which occur in transit shall be supported, where possible, with a copy of the bill of lading, and by affidavits of agents of the carrier or of other persons having personal knowledge of the loss. Claims covering other such losses shall be supported by affidavits of persons having personal knowledge of the loss. Where the spirits lost contained ineligible ingredients, the provisions of § 201.486 shall apply. Where any loss covered by this section occurs during removal from bonded premises or customs custody to bottling premises, the proprietor shall show in the records maintained the actual quantity received at the bottling premises.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.485 Operating losses.

Losses of spirits by reason of the conditions stated in § 201.482(b) may be computed and claimed by the proprietor and tentatively allowed as provided in §§ 201.488 and 201.489, but shall be adjusted and finally allowed on a fiscal year basis. Such losses of spirits (except losses incurred in the manufacture of gin and vodka in a closed system which are provided for in § 201.487) shall be allowed in an amount no greater than the excess of losses over gains and not to a greater extent than is set forth below:

<i>If total completions during the fiscal year in proof gallons are—</i>	<i>The maximum allowable loss in proof gallons is—</i>
Not over 24,000.....	2 percent of completions.
Over 24,000 but not over 120,000.....	480 proof gallons plus 1 percent of excess over 24,000.
Over 120,000 but not over 600,000.....	1,440 proof gallons plus 0.6 percent of excess over 120,000.
Over 600,000 but not over 2,400,000.....	4,320 proof gallons plus 0.3 percent of excess over 600,000.
Over 2,400,000.....	9,720 proof gallons plus 0.2 percent of excess over 2,400,000.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.486 Ineligible ingredients.

When alcoholic ingredients (such as spirits and wines and alcoholic flavoring and blending materials) other than spirits withdrawn from bond by the proprietor of the bottling premises on payment or determination of tax for removal to his premises for rectification or bottling, are used by him in the manufacture of spirits products, the loss otherwise allowable shall be reduced in a ratio equal to the ratio of the total proof gallons of such other alcoholic ingredients used, to the total proof gallons of all alcoholic ingredients used in the finished products.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.487 Losses in manufacture of gin and vodka.

Where gin or vodka is manufactured on bottling premises by the proprietor who withdrew the spirits from bond on payment or determination of tax, in a closed system (approved as such by the assistant regional commissioner), in a manner similar to that authorized for bonded premises, the proprietor may be allowed actual determined losses of spirits incurred in such manufacture in addition to being allowed the losses otherwise allowable under this subpart. The proprietor shall record the quantities of spirits entered into the closed system and the quantity of the products removed therefrom.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.488 Tentative allowances.

The proprietor may at any time during a fiscal year make claim for tentative allowance of his operating losses, as described in §§ 201.485 and 201.487, from the beginning of the fiscal year through the close of any calendar month thereof, except June. In order to determine the maximum tentative allowable operating loss through the end of any month (within the limitations of § 201.485), (a) the total completions from the beginning of the fiscal year to the end of such month shall be projected at that rate for the full year, (b) the loss which would be allowable for the fiscal year on the basis of the projected completions shall be computed, and (c) such loss shall then be reduced by a quantity attributable to the fractional part of the fiscal year remaining. No claim for tentative allowance shall include any amount previously claimed. Each claim for tentative allowance filed, as provided in this section, shall be plainly marked, "Tentative Claim".

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.489 Losses during short-term operations.

Losses allowable to any proprietor under the provisions of § 201.485 shall not exceed the quantity which would be allowed by a tentative estimate constructed in accordance with the provisions of § 201.488 for the portion of the fiscal year that such proprietor was qualified to operate the plant. Each alternating proprietor shall, when not considered as one proprietor under § 201.490, show in his claim the exact number of days (or calendar months, if complete) he was qualified to operate the bottling premises during the period covered by the claim. The maximum amount of loss allowance shall be limited to an amount proportionate to that which would have been allowed for the full fiscal year at the rate of loss and the rate of completions prevailing in his operation during the pertinent period. Where the period of qualification is other than a calendar month or months, computations shall be based on the exact number of days involved and on a year of 365 days. Where the bottling facilities are qualified and operated alternately for bottling spirits in bond and bottling spirits after withdrawal from bond on payment or determination of tax, the bottling premises, for purposes of computing loss allowances, shall be considered to have remained qualified throughout any periods during which operations were temporarily suspended for bottling-in-bond activities.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.490 Affiliated or subsidiary corporation.

Where a corporation and any of its affiliated or subsidiary corporations are qualified for successive operations at the same bottling premises, the several corporations may make a joint application to the assistant regional commissioner for permission to be treated as one proprietor for the purpose of computing the quantities of spirits lost through the various causes described in §§ 201.482 and 201.487, and filing claims for abatement, remission, or refund of tax thereon. The application shall contain or be verified by a written declaration that it is executed under the penalties of perjury and shall set forth the names of the corporations, including affiliates and subsidiaries, making the application, their relationship, the purpose of the application, and the name of the corporation in which reports and claims shall be filed. Any changes in the facts or conditions set forth in the approved application shall necessitate the filing

of a new application and approval thereof. As used in this section "affiliated or subsidiary corporations" means corporations of "an affiliated group" as defined in section 1504, I.R.C., and parent and subsidiary corporations where the parent corporation owns stock representing more than 50 percent of the total combined voting power of all classes of stock of the subsidiary corporation entitled to vote (not including stock which is entitled to vote only on default of payment of dividends or other special circumstances).

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.491 Claims and supporting data.

Any claim filed under § 201.45(d) shall be accompanied and supported by Form 2611 to cover the computation of the losses described in §§ 201.485 and 201.487, as applicable. The final claim for operational losses, as described in §§ 201.485 and 201.487, shall be filed within 6 months from the close of the fiscal year. Any claim filed under § 201.45(c) to cover losses described in § 201.484 shall be filed within 6 months from the date of the loss.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.492 Inventories.

Any proprietor intending to file claim under § 201.45(d) shall before beginning business on the first business day of the first period for which he intends to file claim, and at the close of the last business day of each period for which any such claim is to be filed, take an inventory of all alcoholic ingredients that have been dumped for use in the production of spirits products and which are in process (i.e., those which are not "completions" as defined in § 201.11). The proprietor shall show, in the record of such inventory, the contents of each container in proof gallons, and as to each container, whether the contents are (a) spirits withdrawn by him from bond directly to his bottling premises for rectification or bottling, as provided in this part, or which are otherwise eligible for loss allowance by reason of the provisions of section 5008(c) (5), I.R.C., (b) other spirits (not applicable to the July 1, 1959, inventory), (c) wines which have been dumped for use in the manufacture of distilled spirits products, or (d) a mixture of such spirits or wines with each other, or with alcoholic flavoring or blending ingredients. The record of any inventory taken, under this section, for the first business day of the first period for which a proprietor intends to file a claim shall show as to paragraphs (c) and (d) of this section the proof gallons of each component comprising the contents of each container. The proprietor shall record in similar detail the quantities of alcoholic ingredients on hand which are not in process. The proprietor shall, at least three days in advance, advise the assigned officer of the date and time he will take any inventory under this section. The proprietor shall not commence business on July 1, 1959, until the inventory required on that date has

been verified by an internal revenue officer.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.493 Applicability of loss provisions.

The provisions of this subpart relating to allowance of loss of spirits withdrawn from bond for rectification or bottling apply in respect of spirits withdrawn from bond on payment or determination of tax on or after July 1, 1959. Such provisions shall also apply in respect of losses occurring on and after July 1, 1959, and after dumping for rectification or bottling, of spirits withdrawn from bond prior to July 1, 1959, and such spirits shall be considered as having been withdrawn from bond on payment or determination of tax by the proprietor of the bottling premises at which the spirits are, or have been, dumped for rectification or bottling. Distilled spirits on bottling premises on July 1, 1959, which were withdrawn from bond before that date, and which were not dumped for rectification or bottling before that date, are not eligible for loss allowance on losses occurring before such dumping, and shall be maintained in a separate account. Likewise, distilled spirits withdrawn from bond before July 1, 1959, which are brought onto bottling premises on or after that date, are not eligible for loss allowance on losses occurring before such dumping, and such spirits shall also be maintained in a separate account until dumped.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.494 Gauge of spirits.

Where spirits are gauged to determine (a) losses as provided by § 201.484, (b) losses as provided by § 201.485 which occur before dumping, (c) quantities to be dumped for rectification or bottling on or after July 1, 1959, when the spirits were withdrawn from bond before such date, or (d) quantities entered into or removed from the closed system, as provided in § 201.487, such gauge shall be made by the proprietor by weight and proof unless the assistant regional commissioner approves another method of gauging.

(72 Stat. 1358; 26 U.S.C. 5204)

§ 201.495 Records.

Proprietors of bottling premises shall, in addition to the other applicable records required by this chapter, keep such records as are necessary to support the statement of losses at bottling premises, Form 2611, and to enable internal revenue officers to verify claims for refund on losses provided for in section 5008(c), I.R.C. Such records shall accurately and clearly reflect the following:

(a) The kind and quantity of alcoholic flavoring materials removed from the bottling premises and the identity of the consignee.

(b) The kind and quantity of spirits lost by theft.

(c) The kind and quantity of spirits removed from the bottling premises as samples.

(d) The actual quantity of spirits received where losses, as described in

§ 201.484, occur prior to receipt of the spirits on bottling premises.

(e) The details of each inventory taken under § 201.492, including the date and time taken. Where such inventory is taken by a person other than the proprietor, each sheet thereof shall contain the name and title of such person.

(72 Stat. 1323; 26 U.S.C. 5008)

Subpart S—Voluntary Destruction

§ 201.561 General.

The tax liability on distilled spirits (including denatured spirits) terminates, or if the tax has been paid it may be refunded, when such spirits are voluntarily destroyed in accordance with this subpart—

(a) By the proprietor or other persons liable for the tax while the spirits are in bond, or

(b) By the proprietor who withdrew the spirits on payment or determination of tax on or after July 1, 1959, for rectification or bottling if the spirits (before the completion of bottling and casing or other packaging for removal from the bottling premises to which removed from bond) are found by him to be unsuitable for the purpose for which intended. A corporation and any of its affiliated or subsidiary corporations who conduct successive operations at the same bottling premises may qualify, as provided in § 201.490, to be treated as one proprietor for the purposes of this subpart. This paragraph does not apply to any tax other than the distilled spirits tax imposed under section 5001(a)(1), I.R.C., and applies only in respect of tax on the quantity actually destroyed.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.562 Application, Form 1577.

Application for destruction of spirits (including denatured spirits) shall be filed by the proprietor of a plant on Form 1577 with the assigned officer or, if none is regularly assigned, the assistant regional commissioner. If the proprietor desires to destroy spirits in bond at some place other than on bonded premises, the assistant regional commissioner may require that the spirits be moved to a more convenient location. The quantity of spirits to be destroyed shall be determined by an assigned officer, who shall supervise the destruction thereof and prepare his report on Form 1577; denatured spirits may, at the discretion of the approving officer, be destroyed without supervision.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.563 Claims.

Claims for refund of tax on spirits voluntarily destroyed under this subpart shall be filed pursuant to the provisions of § 201.45(b). Where spirits destroyed on bottling premises contain alcoholic ingredients which were not withdrawn by the proprietor from bonded premises on tax determination, such ingredients shall not be included in any claim for refund. The quantity of all spirits and alcoholic ingredients destroyed on bottling premises shall be reported on Form 2611. All claims under this subpart must

be filed within 6 months from the date of destruction.

(72 Stat. 1323; 26 U.S.C. 5008)

Subpart T—Return of Spirits to Bonded Premises

§ 201.571 Return of taxpaid spirits to bonded premises.

Subject to the provisions of this subpart, spirits withdrawn from bonded premises on payment or determination of tax in bulk containers on or after July 1, 1959, may be returned to bonded premises, if such spirits have been found to be unsuitable for the purpose for which intended to be used before any processing thereof and before removal of any spirits (other than samples for testing or analysis) from the original container in which such spirits were withdrawn. In the case of spirits withdrawn by pipeline, the tank into which the spirits were originally deposited shall be considered the original container, and such spirits may be returned by pipeline or by other approved containers. The returned spirits shall be immediately redistilled or denatured or mingled under the following conditions:

(a) If distilled at 190 degrees or more of proof, mingled with other spirits in bond which were so distilled;

(b) If eligible for denaturation, mingled with other eligible spirits for immediate denaturation;

(c) If eligible to be removed from bond for an authorized tax-free purpose, mingled with other eligible spirits to be immediately so removed; or

(d) If to be redistilled at the same or at another plant, mingled with other spirits for immediate redistillation.

All provisions of chapter 51, I.R.C., and this chapter, applicable to spirits in internal revenue bond shall be applicable to spirits returned to bonded premises under this section on such return.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.572 Application for return of taxpaid spirits.

Application shall be prepared on Form 2612 by the proprietor of the bonded premises and submitted to the assistant regional commissioner for approval of the return of spirits under the provisions of § 201.571. On receipt from the assistant regional commissioner of the approved application, the proprietor shall make arrangements for the shipment of the spirits to his bonded premises.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.573 Receipt of returned taxpaid spirits.

On receipt of taxpaid spirits eligible for return to bonded premises, the proprietor shall gauge the spirits in the presence of the assigned officer. The proprietor shall then scalp and attach to one copy of Form 2612 any internal revenue stamps attached to the containers. The proprietor shall execute his receipt for the spirits and report of gauge on all copies of the approved Form 2612 and deliver all the copies to the assigned officer who shall, on execution of his verification of the receipt and gauge of the spirits on the form, return two copies

to the proprietor. The assigned officer shall forward the copy of Form 2612, with the scalped stamps attached, to the assistant regional commissioner, and shall retain the remaining copy for his files. The proprietor shall retain one copy of Form 2612 for his files and shall attach one copy to his claim for refund, Form 843, as provided by § 201.44.

(72 Stat. 1364; 26 U.S.C. 5215)

§ 201.574 Return of recovered denatured spirits for redenaturation.

The provisions of Part 182 of this chapter relating to the return of recovered denatured alcohol and articles containing denatured alcohol to denaturing plants shall be applicable to the return of recovered denatured spirits and articles containing denatured spirits to the denaturing facilities of distilled spirits plants.

(72 Stat. 1372; 26 U.S.C. 5273)

§ 201.575 Return of spirits (including denatured spirits) withdrawn free of tax.

Spirits (including denatured spirits) withdrawn free of tax under the provisions of section 5214 and section 7510, I.R.C., and recovered denatured spirits may, under the applicable provisions of this chapter, be returned for redistillation to bonded premises of any plant authorized to produce spirits, or to any bonded premises for storage pending subsequent lawful withdrawal free of tax. Where the spirits (including denatured spirits) are returned to bonded premises for storage, without distillation, the proprietor shall execute a consent of surety on Form 1533 to extend the terms of Form 2601 to cover the return and storage of such spirits. On receipt of such spirits the proprietor shall gauge the spirits and prepare a report thereof on Form 1440, in duplicate, and, except in the case of denatured spirits, the assigned officer shall verify the report. The proprietor shall retain the original of Form 1440 and deliver the copy to the assigned officer. Spirits recovered by the redistillation of denatured spirits (including recovered denatured spirits) may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. All spirits redistilled under the provisions of this section shall, subject to the provisions of this section, be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter and chapter 51, I.R.C., applicable to the original production of distilled spirits, shall be applicable thereto. The receipt and distillation (if any) of such spirits shall be recorded in the appropriate records and reports of the proprietor. Nothing in this section shall be construed as affecting any provision of law or regulations relating to the labeling, marking, branding, or identification of distilled spirits.

(72 Stat. 1365; 26 U.S.C. 5223)

RETURN OF SPIRITS WITHDRAWN WITHOUT PAYMENT OF TAX

§ 201.576 General.

On application of the proprietor of a plant, spirits which have been lawfully

withdrawn without payment of tax under the provisions of this chapter for exportation, or for deposit in a manufacturing bonded warehouse—class six, or for deposit in a foreign-trade zone, or for use on vessels and aircraft may, for good cause, be returned—

(a) To the bonded premises of any plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises from which withdrawn, for storage pending subsequent removal for lawful purposes:

Provided, That such spirits are returned before they are exported, deposited in a manufacturing bonded warehouse—class six, deposited in a foreign-trade zone, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.577 Application for return of spirits withdrawn without payment of tax.

Where a proprietor of a plant desires to return spirits to his plant as provided in § 201.576, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show—

(a) Name, address, and plant number of the plant to which the spirits are to be returned.

(b) Name, address, and plant number of the plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Date withdrawn, with the form and serial number under which withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall forward the original and two copies to the assigned officer and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.578 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the plant authorized to receive them. In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved

application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the spirits are returned before the withdrawal forms have been filed with the customs officials. The customs officer shall, if he finds that the spirits are eligible for return under § 201.576, accept the approved application as authority for the return of the spirits to the plant noted on the application and shall mark each copy of the withdrawal form "Canceled", note the date thereon, affix a copy of the approved application to each set of canceled withdrawal papers, return both sets to such principal, and, where the spirits are in his custody, release them for return. The canceled sets of withdrawal forms, with attachments, shall be delivered by such principal or his agent to the assigned officer at the plant. When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the assigned officer who shall cancel and date the withdrawal forms and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.579 Receipt of spirits at plant.

The receipt and deposit of the returned spirits shall be under the direct supervision of the assigned officer who shall verify the quantity received. In the case of spirits in bulk containers the proprietor shall gauge the spirits and prepare and deliver his report of gauge on Form 1520, in triplicate, to the officer. The proprietor shall also scalp the export stamps and attach them to one copy of Form 1520, and deliver Form 1520 to the assigned officer. In the case of bottled spirits, the proprietor shall prepare and deliver to the assigned officer a report of the spirits received on Form 1520, in triplicate. All export marks shall be effaced from the containers by the proprietor. Spirits returned for redistillation shall be disposed of and accounted for in accordance with the provisions of § 201.575. All spirits returned to bonded storage shall be recorded in the appropriate records and reports of the proprietor, and may be withdrawn for any purpose authorized in chapter 51, I.R.C.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 201.580 Disposition of forms.

After the spirits have been gauged, and on receipt of the Form 1520 from the proprietor, the assigned officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall then forward the original withdrawal form, with attachments, to the assistant regional commissioner designated on the withdrawal form, the original of the endorsed application, with

Form 1520 (and scalped stamps if any) to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the plant from which the spirits were withdrawn, deliver the copy of the withdrawal form (with attachments) and a copy of Form 1520 to the proprietor of the receiving plant, and retain a copy of the endorsed application and Form 1520 for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

ABANDONED SPIRITS

§ 201.581 Abandoned spirits.

Spirits abandoned to the United States may be sold, without payment of the internal revenue tax, to a proprietor of a plant for denaturation, or for redistillation and denaturation, if such plant is authorized to denature or redistill and denature spirits. Such spirits shall be kept apart from all other spirits (including denatured spirits) until denatured. The receipt, gauge, handling, and recordkeeping provisions of § 201.575 are applicable to such spirits.

(72 Stat. 1370; 26 U.S.C. 5243)

Subpart V—Samples

§ 201.641 Samples for analysis or testing.

Subject to the conditions prescribed in this subpart, the proprietor may withdraw, free of tax, from the closed distilling system or from containers on bonded premises, samples of spirits in the minimum size and number necessary for the conduct of his business: *Provided*, That the size of such samples shall not exceed one quart unless the assistant regional commissioner has approved the taking of larger samples. Such samples shall be used exclusively for testing or laboratory analysis. When the assistant regional commissioner finds that the number or size of samples withdrawn is excessive, he shall so advise the proprietor and inform him as to the number and size of samples which may be withdrawn free of tax. Where the testing consists of an organoleptic examination, such examinations shall be made only on the plant premises, or in a central laboratory of the proprietor (or central laboratory of any of its affiliated or subsidiary corporations, as defined in § 201.490, which is qualified as a proprietor of a distilled spirits plant), or, when approved by the assistant regional commissioner, in a recognized commercial laboratory. Samples withdrawn free of tax shall not be used for the development of blends, for beverage purposes, for testing the stability or suitability of newly developed materials used in the manufacture of items such as containers, closures, pipes, or hoses, and shall not be furnished to salesmen or dealers or used for advertising or soliciting purposes (including sales promotion purposes and "consumer preference" tests); where spirits are sold subject to approval as to quality a sample may be furnished the purchaser. When the assistant regional commissioner finds that any samples withdrawn were in excess of the minimum size and number necessary or that any samples were used or disposed of in any manner not author-

ized by this part, he shall proceed to collect the tax thereon.

(72 Stat. 1314, 1362, 1382; 26 U.S.C. 5001, 5214, 5373)

§ 201.642 Samples of denatured spirits.

The proprietor may take such samples of denatured spirits as may be necessary for the conduct of his business. In addition, the proprietor may furnish samples of specially denatured spirits to dealers in and users of specially denatured spirits in advance of sales and to such users and to applicants or prospective applicants for permits to use specially denatured spirits for experimental purposes or for use in preparing samples of a finished product for submission to the Director. Samples for these purposes, in excess of one quart, shall be furnished only pursuant to a permit on Form 1512 issued to the consignee. Form 1473 shall be prepared to cover shipment of samples of a size in excess of one quart, and will show the permit number of the Form 1512.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 201.643 Schedule of samples.

The proprietor shall furnish the internal revenue officer a schedule of all samples to be taken on bonded premises by means other than mechanical sampling devices. The schedule (either separate or a part of the schedule of operations) shall be prepared for such period of time as the proprietor may accurately forecast his sampling operations and shall be furnished at least one day in advance of the taking of any samples. When unanticipated samples are needed, the schedule may be appropriately supplemented. The schedule shall provide—

(a) The name of the proprietor and the plant number;

(b) The kind of spirits or formula number of denatured spirits;

(c) The place from which the sample is to be removed, or serial number of the package and the name and plant number of the packaging proprietor if other than the one taking the sample;

(d) The purpose for which the sample is to be taken;

(e) The size of the sample;

(f) Whether or not the sample is taxable;

(g) If the sample is to be analyzed or tested at other than the immediate or contiguous premises of the proprietor, the name and address of the laboratory or purchaser to which the sample is to be sent; and

(h) The approximate time the sample will be taken.

When samples are taken the proprietor shall indicate on his retained copy of the schedule, or on an appropriate record, the taking of the sample and the disposition thereof.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.644 Taking of samples.

Samples shall be taken from the closed distilling system by means of mechanical sampling devices installed as provided in this chapter, unless it is shown that the installation of mechanical sampling devices is not justified and the necessary samples can be taken at times that will not require increased supervision by in-

ternal revenue officers. Such mechanical sampling devices may be used for the taking of samples from storage tanks. Samples taken by means other than mechanical sampling devices shall be taken under the direct supervision of the assigned officer.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.645 Disposition of samples.

Remnants or residues of samples of spirits withdrawn free of tax, remaining after analysis or testing shall not be accumulated beyond a reasonable time. They shall be destroyed or returned to vessels in the distilling system containing similar spirits.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.646 Taxable samples.

Samples taken of spirits in bond which are used for purposes other than testing or laboratory analysis, and samples withdrawn free of tax in excess of any limitations, as provided in § 201.641, are taxable. The tax shall be paid as provided in this chapter. The proprietor of bonded premises shall keep a daily record of all taxable samples removed as provided in this chapter.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

§ 201.647 Label.

On the container of each sample of spirits, except denatured spirits or a sample solely for testing and immediate disposal at the location where taken or at the operator's control position, the proprietor shall affix a label showing the following information:

(a) The word "sample";

(b) The kind of spirits;

(c) The place from which the sample was removed, and the identity of the package where applicable;

(d) The purpose for which the sample was removed;

(e) The size of the sample;

(f) Whether taxable or free of tax, if taxable, the proof gallon content to the fourth decimal place;

(g) If the sample is to be removed to other than the immediate or contiguous premises of the proprietor, the name and address of the laboratory or purchaser to which the sample is to be sent;

(h) The name of the proprietor and the plant number;

(i) The signature of the person who removed the sample; and

(j) The date the sample was taken.

Each sample of denatured spirits withdrawn from the premises of the distilled spirits plant shall be labeled as a sample and shall show the name, address, and plant number of the proprietor, the name and address of the person to whom sent, the words "Specially Denatured Spirits" or "Specially Denatured Alcohol", followed by the formula number and the quantity.

(72 Stat. 1362, 1382; 26 U.S.C. 5214, 5373)

Subpart W—Other Provisions Relating to Plants

CONSTRUCTION AND EQUIPMENT

§ 201.651 Construction and equipment.

Where, under this chapter, any requirement pertaining to the arrange-

ment, construction, equipment, or protection of facilities for the production of spirits, bonded warehousing of spirits, bottling in bond of spirits, denaturing of spirits, rectification of spirits, or tax-paid bottling of spirits, is prescribed, such facilities on plant premises shall be arranged, constructed, equipped, and protected in that manner or shall be arranged, constructed, equipped, and protected in another manner which affords equal or greater protection to the revenue, and as much or more facility for inspection and supervision by internal revenue officers; provided such other manner has been approved by the Director.

(72 Stat. 1353; 26 U.S.C. 5178)

§ 201.652 Signs.

Each plant shall be identified by a sign placed conspicuously on the outside front or entrance thereof and exhibiting in readily legible and durable characters (a) the name of the proprietor, (b) the plant number, and (c) the designation of the kind of business, or businesses (distiller, bonded warehouseman, rectifier, and/or bottler), in which engaged, except that in lieu of the foregoing designations, designations which have obtained public and commercial significance, such as industrial alcohol plant, registered distillery, or rectifying plant, as appropriate, may be used.

(72 Stat. 1355; 26 U.S.C. 5180)

§ 201.653 Identification of structures, areas, apparatus, and equipment.

Each room or enclosed area where spirits or wines, distilling or fermenting materials, or containers are held, and each building, within the plant, shall be appropriately designated as to use. Each tank or receptacle for spirits or wine shall be marked to show its serial number, capacity, and use. Where tanks or receptacles are used for multiple purposes, such uses shall be indicated. Each still shall be numbered and marked to show its use. All other major equipment used for processing or containing spirits or wine, or distilling or fermenting material, and all other tanks, shall be identified as to use unless the intended use thereof is readily apparent.

(72 Stat. 1353; 26 U.S.C. 5178)

OPERATIONS

§ 201.654 Addition of burnt sugar or caramel to rum.

The provisions of this chapter relating to the addition of caramel to brandy in bond shall be applicable to the addition of caramel to rum in bond.

(72 Stat. 1329; 26 U.S.C. 5025)

§ 201.655 Redistillation.

The processing of distilled spirits, subsequent to production gauge, in the manufacture of vodka in the production facilities of a plant shall be treated for the purposes of sections 5025(d), 5215, and 5223 (a) and (d), I.R.C., as redistillation of the spirits.

(72 Stat. 1365; 26 U.S.C. 5223)

§ 201.656 Mingling of spirits distilled at 190 degrees or more of proof.

Any spirits distilled at 190 degrees or more of proof, whether or not subsequently reduced, may be mingled in bonded warehouses. Where such spirits are contained in packages, the procedures of this chapter applicable to the consolidation of neutral spirits shall be applicable to such mingling.

(72 Stat. 1367; 26 U.S.C. 5234)

§ 201.657 Mingling of heterogeneous spirits for immediate removal to bottling premises.

Heterogeneous spirits may be mingled in bulk gauging tanks in bonded warehouses for determination of the tax imposed by section 5001, I.R.C., if such spirits are to be immediately removed to bottling premises for use exclusively in taxable rectification or in rectification under section 5025(f), I.R.C. The quantity of each component comprising the mixture shall be determined by the proprietor in order to provide a statement of composition. When the mingled spirits are transferred to bottling premises (whether on the same or another plant premises), the proprietor shall forward to the proprietor of the bottling premises such information regarding the composition of the mingled spirits as is necessary for determining the proper use of the spirits and the labeling of the finished product. The proprietor of the bonded premises shall note on the withdrawal form that the spirits are for use only in taxable rectification, or, if applicable, are eligible for rectification under section 5025(f), I.R.C.

(72 Stat. 1329, 1367; 26 U.S.C. 5025, 5234)

§ 201.658 Consolidation of packaged spirits.

The provisions of Subpart K of Part 170 of this chapter, relating to the consolidation of packaged spirits for further storage in bond, pursuant to section 210(a)(2) of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859) are hereby made applicable to the consolidation of packaged spirits under section 5234(a)(2), I.R.C.

(72 Stat. 1329, 1368; 26 U.S.C. 5025, 5234)

§ 201.659 Blending of beverage rums.

The provisions of this chapter relating to the blending of beverage brandies in bond, except the provisions relative to brandy-blending departments, shall be applicable to the blending of beverage rums in bond.

(72 Stat. 1328, 1368; 26 U.S.C. 5023, 5234)

§ 201.660 Blending of rums on bottling premises.

The rectification tax imposed by section 5021, I.R.C., does not attach to blends of two or more rums blended on bottling premises in the same manner and under the same conditions provided in this chapter for the blending of brandies exempt from such tax.

(72 Stat. 1328; 26 U.S.C. 5023)

§ 201.661 Bottling in bond of spirits for exportation with benefit of drawback.

Spirits bottled in bond for export may be withdrawn from bond on payment or determination of tax and exported with benefit of drawback. In such case, the export strip stamp affixed to each bottle shall be legibly overprinted in the center thereof with the word "DRAWBACK", by means of a rubber stamp or other suitable method. Spirits originally bottled for domestic use may be restamped with export strip stamps overprinted as required above and relabeled or marked in such manner as will comply with the requirements for export spirits, provided they have not been removed from the premises where originally bottled. Spirits bottled in bond for domestic use which have been removed from the premises where originally bottled (but on which the tax has not been paid or determined) may not be removed for exportation with benefit of drawback unless rebottled. Spirits originally bottled in bond for domestic use may (before payment or determination of tax) be reduced in proof and (after payment or determination of tax) be exported with benefit of drawback. The Government side of the case containing spirits so stamped shall, in addition to other marks required by this chapter, be marked "DRAWBACK" and such spirits stored in bond shall be kept separate and apart from other export spirits and domestic spirits and they shall be appropriately identified on Forms 1515 and 1620. After payment or determination of the tax the spirits shall be removed to export storage, unless the spirits are to be shipped immediately for exportation. The provisions of Part 252 of this chapter shall apply to the export storage, removal therefrom, and exportation of bottled-in-bond spirits withdrawn from bond on payment or determination of tax for export with benefit of drawback.

(72 Stat. 1336, 1359; 26 U.S.C. 5062, 5205)

§ 201.662 Restamping and marking taxpaid spirits for export.

Taxpaid spirits originally bottled for domestic use may be exported with benefit of drawback, without rebottling, if such spirits have been restamped and marked especially for export at the plant where originally bottled and before removal therefrom. Such restamping may consist of legibly overprinting in the center of the red strip stamp affixed to each bottle the word "EXPORT" by means of a rubber stamp or other suitable method. The bottles shall be labeled, and the cases marked, in accordance with the provisions of Part 252 of this chapter.

(72 Stat. 1336, 1359; 26 U.S.C. 5062, 5205)

§ 201.663 Transfers between bonded premises.

Where spirits of 190 degrees or more of proof for industrial use, or denatured spirits, are to be transferred in bond, the provisions of Part 182 of this chapter relating to transfers in bond shall be

applicable, except (a) the proprietor desiring to receive such spirits or denatured spirits shall in lieu of the procedures relating to Form 1436, Form 1463, or Form 1464, as the case may be, make application on Form 2609, (b) the consignor proprietor shall in all cases prepare Form 1473 to cover transfer of denatured spirits, and (c) the consignor proprietor shall prepare two additional copies of Form 1440 to cover transfer of spirits, and deliver them to the assigned officer in order that he may retain one for his files and forward the other to the assigned officer at the consignee's plant. Where any other spirits are to be transferred in bond, such transfer shall be pursuant to approved Form 236, and in accordance with the applicable provisions of Part 225 of this chapter.

(72 Stat. 1362; 26 U.S.C. 5212)

§ 201.664 Withdrawal of spirits to bottling premises.

Where spirits are to be withdrawn from internal revenue bond by the proprietor of bottling premises, for rectification or bottling, he shall make application for such withdrawal on Form 2608. When an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling premises at a specified future time, he may apply for the withdrawal of spirits from bond on Form 2608 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such premises. Spirits withdrawn on or after July 1, 1959, from internal revenue bond, for rectification or bottling, otherwise than as provided in this section, are not eligible for loss allowances under the provisions of section 5008 (b) (2) and (c), I.R.C.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 201.665 Export transactions.

On and after July 1, 1959, the withdrawal of spirits without payment of tax by the proprietor of a plant for exportation, or for use on vessels and aircraft, or for transfer to and deposit in a foreign-trade zone, and the withdrawal by such proprietor of specially denatured spirits free of tax for exportation or for transfer to and deposit in a foreign-trade zone, shall be under the proprietor's bond, Form 2601. The withdrawal of spirits for the above purposes by persons other than the proprietor of a plant shall continue to be made under the bonds required by this chapter. The cancellation and crediting of bonds shall be in accordance with the applicable provisions of Part 225 of this chapter.

(72 Stat. 1352; 26 U.S.C. 5175)

§ 201.666 Taxpaid spirits on bonded premises.

Except in the case of—

(a) Spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(b) Spirits which have been bottled in bond under section 5233, I.R.C., and which are returned to bonded premises

for rebottling, relabeling, or restamping in accordance with the provisions of section 5233 (d), I.R.C.; or

(c) Spirits returned to bonded premises in accordance with the provisions of section 5215, I.R.C.; or

(d) Spirits, held on bonded premises, on which the tax has become payable by operation of law, but on which the tax has not been paid;

no spirits on which the tax has been paid or determined shall be stored or allowed to remain on the bonded premises of a plant. Spirits on which the tax has been paid or determined may be conveyed within a plant across bonded premises: *Provided*, That such spirits are not stored or allowed to remain on the bonded premises and are kept separate and apart from spirits on which the tax has not been paid or determined.

(72 Stat. 1404; 26 U.S.C. 5612)

§ 201.667 Conveyance of untaxed spirits within a plant.

Spirits on which the tax has not been paid or determined may be conveyed (a) from the production facilities of a plant to the bonded warehouse facilities of such plant, (b) from the bonded warehouse facilities of a plant to the production facilities of such plant, or (c) between different portions of the bonded warehouse facilities of the same plant, across any other premises of such plant or (by uninterrupted transportation) over any public thoroughfare: *Provided*, That, (a) such spirits are not stored or allowed to remain on any premises of such plant other than bonded premises, (b) such spirits are kept completely separate and apart from spirits on which the tax has been paid or determined, (c) a description of the means and route of such conveyance and of the facilities between which such spirits will be conveyed has been submitted to and approved by the assistant regional commission, and (d) consent of surety on bond, Form 2601, has been furnished by the proprietor, on Form 1533, extending the terms of such bond to cover such conveyance of such spirits.

(72 Stat. 1356, 1398; 26 U.S.C. 5201, 5601)

LOSSES

§ 201.668 Allowable losses.

The provisions of Part 225 of this chapter relating to losses (including losses by theft) of spirits in bond shall be applicable in respect to spirits (including denatured spirits) lost or destroyed in bond.

(72 Stat. 1323; 26 U.S.C. 5008)

STATUS OF SPIRITS ON JULY 1, 1959

§ 201.669 Status of spirits on July 1, 1959.

(a) *Stored at an internal revenue bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as an internal revenue bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 236 (appropriately modified), in triplicate, covering the transfer of all spirits in the internal revenue bonded

warehouse to the distilled spirits plant. Such form shall show all of the required information as to the spirits and containers except that (1) the season of production may be shown in lieu of the date of original entry for deposit, (2) the date of receipt in the warehouse need not be shown, and (3) Forms 1520 and 1619 need not be furnished. Where space on Form 236 is insufficient, supplementary sheets shall be attached. In lieu of filing Form 236, as provided by this paragraph, the proprietor may file a statement, in triplicate, signed by him or his duly authorized agent, in substantially the following form: "I certify that _____ is the duly qualified

(Name of proprietor)

proprietor of distilled spirits plant No. _____ and that such plant is successor to internal revenue bonded warehouse No. _____, qualified to operate on June 30, 1959. I acknowledge that all spirits which were on deposit in said internal revenue bonded warehouse at the close of business June 30, 1959, as reflected by the records required to be maintained in respect thereto under law and regulations in force on such date, are on deposit in bond in distilled spirits plant No. _____ at the beginning of business on July 1, 1959, and that, pursuant to section 5005(c), I.R.C., _____ is liable for the tax

(Name of proprietor)

on such spirits." On receipt of the Form 236, or the statement in lieu thereof, by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(b) *Stored at an industrial alcohol bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as an industrial alcohol bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 1440 (appropriately modified), in triplicate, covering the transfer of all spirits in such industrial alcohol bonded warehouse to the distilled spirits plant. Separate Forms 1440 shall be filed for spirits in (1) packages, (2) drums, (3) cases, (4) other portable containers, and (5) bulk. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(c) *Stored at a denaturing plant.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as a denaturing plant shall, before commencing business on July 1, 1959, file with the assigned officer Form 1440 (appropriately modified), in triplicate, covering the transfer of all spirits (including denatured spirits) in such denaturing plant to the distilled spirits plant. Separate Forms 1440 shall be filed for undenatured spirits and denatured spirits, and shall show the total proof gallons of undenatured spirits and the total wine gallons of denatured

spirits. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one to the proprietor, and retain the remaining copy for his files.

(d) *Stored at a distillery denaturing bonded warehouse.* Any person who establishes on July 1, 1959, a plant consisting of, or containing, bonded premises which on June 30, 1959, were qualified as a distillery denaturing bonded warehouse shall, before commencing business on July 1, 1959, file with the assigned officer Form 236 (appropriately modified), in triplicate, covering the transfer of all spirits (including denatured spirits) in such distillery denaturing bonded warehouse to the distilled spirits plant. Separate Forms 236 shall be filed for undenatured spirits and denatured spirits and shall show the total proof gallons of undenatured spirits and the total wine gallons of denatured spirits. On receipt of the forms by the assigned officer, he shall note receipt thereon, send one copy to the assistant regional commissioner, return one copy to the proprietor, and retain the remaining copy for his files.

(e) *Status of spirits in transit.* Where spirits may be in transit to qualified premises under internal revenue bond at the close of business June 30, 1959, the proprietor of the plant which, on July 1, 1959, is the successor to the consignee premises, shall, before commencing business on July 1, 1959, file Form 236 or Form 1440, as appropriate, containing a statement over his signature, substantially as follows: "Application is made herewith for the transfer to the bonded premises of Distilled Spirits Plant No. _____ of any and all spirits which at the close of business on June 30, 1959, were in transit to _____ (insert I.R.B.W., I.A.B.W., or D.P., as applicable) _____, _____ (No. and State) _____ under the provisions of internal revenue law and regulations."

(72 Stat. 1318, 1362; 26 U.S.C. 5005, 5212)

FORM 27B SUPPLEMENTAL

§ 201.670 Form 27B Supplemental.

Every rectifier shall submit Form 27B Supplemental for each formula and process to be employed in the rectification of spirits or wines. Such statement of formula and process shall be prepared and filed as provided in Part 235 of this chapter. Where the rectifier desires to use, on or after July 1, 1959, formulas and processes approved for use prior to such date at a rectifying plant qualified by him to operate at the same general location, he shall (a) adopt such formulas and processes by the submission to the assistant regional commissioner of a statement, in quadruplicate, listing such formulas and processes, or (b) file a new Form 27B Supplemental for each formula and process to be so used.

(72 Stat. 1370; 26 U.S.C. 5251)

FORM 1440

§ 201.671 Copy of Forms 1440 furnished assigned officer.

In every instance where Form 1440 is required under this chapter, sufficient

copies thereof shall be prepared by the proprietor in order that the assigned officer shall be furnished one copy for his files.

[F.R. Doc. 59-4880; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6387]

PART 231—TAXPAID WINE BOTTLING HOUSES

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendment of 26 CFR Part 231 was published in the FEDERAL REGISTER (24 F.R. 3101). No objections having been received within the 30-day period prescribed in the notice, the regulations, as so published, are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall be effective on July 1, 1959.

†-[SEAL]

DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

In order to implement certain provisions of the Internal Revenue Code of 1954, as amended by Public Law 85-859, as they relate to wine, 26 CFR (1954) Part 231 is amended as follows:

PARAGRAPH 1. Section 231.1 is amended to read as follows:

§ 231.1 Bottling or packaging of tax-paid wine.

The regulations in this part relate to the bottling and packaging of taxpaid United States and foreign wines, at premises other than the bottling premises of a distilled spirits plant operated under Part 201 of this chapter.

§ 231.30 [Amendment]

PAR. 2. Section 231.30 is amended as follows:

(A) By striking the phrase "a rectifying plant or taxpaid distilled spirits bottling house" from the first sentence, and inserting in lieu thereof the phrase "the bottling premises of a distilled spirits plant".

(B) By changing the citation at the end thereof to read:

(72 Stat. 1378, 1379, 3181; 26 U.S.C. 5352, 5356, 5364)

§ 231.41 [Deletion]

PAR. 3. Delete § 231.41 *Export storage.*

§ 231.41a [Deletion]

PAR. 4. Delete § 231.41a *Off-premises export storage.*

PAR. 5. Section 231.52 is amended to read as follows:

§ 231.52 Occupational taxes.

Proprietors of taxpaid wine bottling houses who sell wine must file special tax returns on Form 11, and pay special (occupational) tax as wholesale dealer in wines, or retail dealer in wines, as the case may be, as provided in Part 194 of this chapter.

(68A Stat. 846, 72 Stat. 1340, 1343, 1344, 1346; 26 U.S.C. 7011, 5111, 5112, 5121, 5122, 5142)

PAR. 6. Subpart G is amended to read as follows:

Subpart G—Wines for Export With Benefit of Drawback

§ 231.100 General.

Wine manufactured or produced in the United States and on which the internal revenue tax has been determined or paid may be exported from a taxpaid wine bottling house. On exportation of the wine there may be allowed a drawback equal in amount to the tax found to have been paid thereon.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 231.101 Procedure.

The exportation of wine, including the lading thereof for use as supplies on vessels or aircraft and the allowance of drawback thereon, shall be in accordance with the provisions of Part 252 of this chapter.

(68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 59-4877; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6384]

PART 245—BEER

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendments of 26 CFR Part 245 was published in the FEDERAL REGISTER (24 F.R. 3101).

In accordance with the notice interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. Consideration was given to all such relevant matter as was presented by interested parties regarding the rules proposed.

It has been determined administratively to further amend these regulations by deleting the provisions relating to default in payment of the tax on beer since such provisions will be included in a separate document covering temporary regulations establishing a semimonthly return system which will become effective on June 24, 1959. Further changes in the regulations are proposed in order to simplify the procedure with respect to refund of, or credit for, tax paid on beer removed from the market, by eliminating the requirement for an application covering such removal from the market and substituting a requirement for a notice of intention.

In addition, certain editorial changes have been made. Accordingly, the amendments as published in the FEDERAL REGISTER are hereby adopted, subject to the following changes:

1. Paragraph 1 of the notice is revised by inserting in paragraph (b) of the definition of "Removed for consumption or sale" and immediately preceding the word "day", the word "business".

2. Paragraph 11 of the notice is revised.

3. Paragraph 12 of the notice is deleted.

4. Paragraph 13 of the notice is renumbered as paragraph 12.

5. Paragraph 14 of the notice is renumbered as paragraph 13 and is changed by inserting the word "business" immediately preceding the word "day" in each place that it appears.

6. Paragraphs 15 through 17 of the notice are renumbered as paragraphs 14 through 16.

7. Paragraph 18 of the notice is renumbered as paragraph 17, and is changed by amending the heading of § 245.160 and by inserting the word "business" in the first sentence, immediately preceding the word "day".

8. Paragraph 19 of the notice is renumbered as paragraph 18 and is revised.

9. Paragraph 20 is renumbered as paragraph 19 and is revised.

10. Paragraphs 21 and 22 of the notice are renumbered as paragraphs 20 and 21.

11. Paragraph 23 of the notice is renumbered as paragraph 22 and is revised.

12. Paragraph 24 is renumbered paragraph 23 and is changed by striking, in the second sentence of § 245.210 as contained therein, the word "storekeeper-gauger" and inserting "internal revenue officer" in lieu thereof.

13. Paragraphs 25 and 26 are deleted from the notice.

14. Paragraph 17 of the notice, renumbered as paragraph 16, is changed by striking the words "has been" in the first sentence of § 245.158, and inserting in lieu thereof the word "is".

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly this Treasury decision shall be effective on July 1, 1959.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

In order to conform the beer regulations (26 CFR (1954) Part 245) to the applicable provisions of the Internal Revenue Code of 1954 as amended by section 201 of the Excise Tax Technical

Changes Act of 1958 (Public Law No. 85-859; 72 Stat. 1313), and to make provision for the prepayment of beer taxes by brewers who are in default in such taxes under the return system, 26 CFR Part 245, Beer, is amended as follows:

§ 245.5 [Amendment]

PARAGRAPH 1. Section 245.5 is amended by inserting, immediately following the paragraph with the heading "Regional commissioner", the following new definition:

Removed for consumption or sale. "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery except that such removal shall not include any beer which is returned to the brewery on the same business day such beer is removed therefrom for delivery.

(72 Stat. 1333; 26 U.S.C. 5052)

PAR. 2. Section 245.13 is amended to read as follows:

§ 245.13 Storage of beer on which the tax has been paid or determined.

Beer on which the tax has been paid or determined shall not be stored in the brewery except as provided in subpart S. (72 Stat. 1334, 1335, 1389; 26 U.S.C. 5054, 5056, 5411)

§ 245.46 [Amendment]

PAR. 3. Section 245.46 is amended as follows:

(A) By striking, immediately following the letter "(c)", the words "sold, or"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1388; 26 U.S.C. 5401)

§ 245.75 [Amendment]

PAR. 4. Section 245.75 is amended as follows:

(A) By changing the first two sentences to read "Brewers are required to pay, on or before the first day of July in each year, or before commencing operations, the special tax imposed by section 5091, I.R.C. Special taxes shall be imposed as of the first day of July in each year, or on commencing any trade or business on which such tax is imposed."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1346; 26 U.S.C. 5142)

PAR. 5. Section 245.76 is amended to read as follows:

§ 245.76 Special tax return.

Every person liable to special tax shall render his return on Form 11 with remittance to the district director of the district in which the business is carried on. (72 Stat. 1346; 26 U.S.C. 5142)

PAR. 6. Section 245.78 is amended to read as follows:

§ 245.78 Exemptions from dealer's special taxes.

(a) *Brewer.* No brewer shall be required to pay special tax as a wholesale

or retail dealer in beer on account of sales, at his principal business office or at his brewery, of beer which, at the time of sale, is stored at his brewery or had been removed therefrom to a taxpaid storeroom operated in connection therewith and stored therein. No exemption at a principal business office is provided unless the brewer has designated such office for the purpose, in writing, to the assistant regional commissioner. No brewer shall have more than one place of sale which is exempt under these provisions for each brewery operated by him. Except as specifically exempted by law, brewers are liable for the special taxes imposed on dealers in beer with respect to their sales of beer, regardless of whether such beer was produced by them or purchased from another brewer.

(b) *Wholesale dealer.* No wholesale dealer in beer who has paid special tax as such a dealer shall again be required to pay special tax as such dealer on account of sales of beer to wholesale or retail dealers in liquors or beer, or to limited retail dealers, consumed at the purchaser's place of business.

(72 Stat. 1340; 26 U.S.C. 5113)

§§ 245.79, 245.80, 245.81, 245.83 [Deletion]

PAR. 7. Sections 245.79, 245.80, 245.81, and 245.83 are revoked.

PAR. 8. Section 245.110 is amended to read as follows:

§ 245.110 Rate of tax.

All beer, brewed or produced, and removed for consumption or sale, is subject to the tax prescribed by section 5051, I.R.C., for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel as authorized in § 245.113.

(72 Stat. 1333; 26 U.S.C. 5051, 5052)

PAR. 9. Section 245.111 is amended to read as follows:

§ 245.111 Persons liable for tax.

The tax imposed by law on beer (including beer purchased or procured by one brewer from another) shall be paid by the brewer of such beer at the brewery where produced: *Provided*, That the tax on beer transferred to a brewery from other breweries owned by the same brewer in accordance with the provisions of subpart Q shall be paid by the brewer at the brewery from which the beer is removed for consumption or sale.

(72 Stat. 1334, 1389; 26 U.S.C. 5054, 5413, 5414)

PAR. 10. Section 245.113 is amended to read as follows:

§ 245.113 Determination of tax on keg beer.

In determining the tax on beer removed in kegs, a barrel shall be regarded as being a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths, and beer may be removed only in kegs rated at those capacities. If any barrel or authorized fractional part of a barrel contains a quantity of beer more than two percent in

excess of its rated capacity, tax shall be determined and paid on the actual quantity of beer (without benefit of any tolerance) contained in such keg. The quantities of keg beer removed subject to tax shall be computed to 5 decimal places. The sum of the quantities so computed for any one day will be reduced to 3 decimal places by dropping the numerals in the 4th and 5th decimal places and the tax shall be calculated and paid on such reduced sum.

(72 Stat. 1333; 26 U.S.C. 5051)

§ 245.116 [Amendment]

PAR. 11. Section 245.116 is amended as follows:

(A) By (1) striking the words "sale or" in the first sentence, and (2) striking the words "sold or" in the second sentence (twice), in the third sentence (once), and in the fifth sentence (once); and

(B) By changing the citation at the end of the section to read:

(68A Stat. 896, 72 Stat. 1334, 1335; 26 U.S.C. 7503, 5054, 5061)

§ 245.140 [Amendment]

PAR. 12. Section 245.140 is amended as follows:

(A) By adding, at the end thereof, the following new sentences: "For the purposes of this subpart, the removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (a) one such corporation owns the controlling interest in the other such corporation, or (b) the controlling interest in each such corporation is owned by the same person. Satisfactory evidence of such control shall be filed with the assistant regional commissioner(s) concerned before any such transfer operations are commenced."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1389; 26 U.S.C. 5414)

PAR. 13. Section 245.155 is amended to read as follows:

§ 245.155 Return of undelivered beer.

Undelivered beer returned to the brewery on the same business day it is removed therefrom shall be returned to stock. Such beer shall not be accounted for as removed for consumption or sale until it is removed for such purpose. The brewer must show in his records the quantity of such beer returned to the brewery each business day. Such records must be supported by credits against loading slips or other papers.

(72 Stat. 1333; 26 U.S.C. 5052)

§ 245.156 [Deletion]

PAR. 14. Section 245.156 is revoked.

§ 245.157 [Amendment]

PAR. 15. Section 245.157 is amended as follows:

(A) By striking the comma immediately following the word "determined" in the first sentence, and inserting in lieu thereof the phrase "(and on which

no claim for credit or refund will be filed)"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1389; 26 U.S.C. 5411)

PAR. 16. Section 245.158 is amended to read as follows:

§ 245.158 Beer removed from market.

Beer on which the tax has been paid or determined, which is removed from the market, may be returned to the brewery and refund or credit of tax claimed thereon in accordance with the provisions of subpart T. Such beer may be stored in the brewery but, pending its disposition, must be completely segregated from all other beer. Such beer must be identified as beer removed from the market and be accessible for inspection by internal revenue officers. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer. The disposition of the beer shall be in accordance with the provisions of this part. The brewer's daily records and Form 103 shall properly reflect the receipt and disposition of such beer, and the balling thereof if used as material.

(72 Stat. 1334, 1335, 1389, 1390; 26 U.S.C. 5054, 5056, 5411, 5415)

PAR. 17. Section 245.160 is amended to read as follows:

§ 245.160 Refund or credit of tax on returned beer.

The tax paid by a brewer on beer produced in the United States and returned to the brewery on other than the same business day it was removed therefrom may be refunded or credited to him (without interest) or, if the tax has not been paid, he may be relieved of liability therefor. Such beer shall be held in storage as provided in § 245.158. Similar refund or credit may be allowed the brewer in respect of the tax paid or determined on beer removed from the market and destroyed as provided in this subpart.

(72 Stat. 1335; 26 U.S.C. 5056)

PAR. 18. Section 245.161 is amended to read as follows:

§ 245.161 Notice by brewer.

When a brewer possesses taxpaid beer (or beer on which the tax has been determined), which is removed from the market and which he desires to destroy, in his brewery or elsewhere, or which after return to the brewery he desires to recondition, use as material, or again remove for consumption or sale, he shall give written notice of his intention, in triplicate, to the assistant regional commissioner: *Provided*, That such notice may be submitted directly to an inspector at the brewery. If the beer is to be destroyed elsewhere than at the brewery, the notice shall so state. The notice shall be verified by a written declaration that it is made under the penalties of perjury. If the beer is to be destroyed, reconditioned, or used as

material, the notice shall, except as otherwise provided in this section, specify the date on which such action is to be taken, which shall not be less than 10 days from the date of the notice. Where the notice is given to an inspector at the brewery, the inspector may supervise the transaction while he is on the premises or transmit the notice to the assistant regional commissioner. Where, because of unusual circumstances, it appears that delay in reconditioning the beer may impose an undue hardship on the brewer, the assistant regional commissioner may, on request by the brewer, permit reconditioning of the beer without regard to the time otherwise provided in this section. The notice shall contain the following information:

(a) The number and sizes of kegs and their total equivalent in barrels; or if in cases, the number of cases, the number and size in ounces of the bottles comprising the cases and the equivalent in barrels of the total contents of the cases.

(b) The date on which the beer was removed from the market.

(c) A statement that the tax on the beer has been fully paid or determined.

(d) A notation with respect to each item indicating whether the beer is to be destroyed, or whether it is to be returned for reconditioning or for use as brewing material, or whether (without such manipulation) it is again to be removed for consumption or sale.

(e) If to be destroyed, the location at which the brewer desires to accomplish destruction and, if not at the brewery, the reason for destruction elsewhere.

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.162 [Amendment]

PAR. 19. Section 245.162 is amended to read as follows:

§ 245.162 Assignment of inspector.

On receipt of the brewer's notice, the assistant regional commissioner will assign an inspector to verify the statements therein and to witness the destruction of the beer, its removal from containers for reconditioning or use as materials, or its return to the stock of the racking room or bottling house, unless the assistant regional commissioner determines that such supervision is unwarranted because of the small quantity of beer involved and such action will not jeopardize the revenue. If the brewer desires to destroy the beer at some place other than the brewery and such place is not readily accessible to an inspector, the assistant regional commissioner may require that the beer is moved to a more convenient location.

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.163 [Amendment]

PAR. 20. Section 245.163 is amended as follows:

(A) By striking, in the first sentence, the words "liability may be remitted", and inserting in lieu thereof the words "brewer may be relieved of liability therefor"; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.164 [Amendment]

PAR. 21. Section 245.164 is amended as follows:

(A) By changing the first two sentences to a single sentence reading "Claims for refund of tax shall be filed on Form 843."; and

(B) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

§ 245.165 [Amendment]

PAR. 22. Section 245.165 is amended as follows:

(A) By striking, in the first sentence, the words "under the circumstances enumerated in that section";

(B) By striking the third sentence and inserting in lieu thereof a new sentence to read "When feasible so to do, the claim should be made a part of the brewer's notice required by § 245.161 or § 245.163.";

(C) By striking the word "application" appearing in the fourth sentence and inserting in lieu thereof the word "notice";

(D) By striking, in the seventh sentence, the opening words "The brewer may not anticipate allowance of a credit" and inserting in lieu thereof the words "The brewer shall not anticipate allowance of a credit"; and

(E) By changing the citation at the end of the section to read:

(72 Stat. 1335; 26 U.S.C. 5056)

PAR. 23. Section 245.210 is amended to read as follows:

§ 245.210 Beer removed to contiguous distilled spirits plants.

Beer may be conveyed by pipeline without taxpayment from the brewery to the bonded premises of a distilled spirits plant which is authorized to produce distilled spirits and which is located contiguous to the brewery. The internal revenue officer assigned to supervise the operations of the distilled spirits plant will also supervise the removal of the beer from the brewery to such plant and the transfer of any residue, which is to be used in making cereal beverage, from such plant to the brewery. The quantity of beer conveyed to a contiguous distilled spirits plant shall be included in the brewer's daily records of both production and removals. If any residue is returned from such plant to the brewery, the brewer's daily records of cereal beverage transactions shall reflect the quantity thereof. The totals of the various quantities involved shall be appropriately reported on Form 103.

(72 Stat. 1365, 1389; 26 U.S.C. 5222, 5412)

[F.R. Doc. 59-4874; Filed, June 11, 1959; 8:45 a.m.]

[T.D. 6388]

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Miscellaneous Amendments

On April 21, 1959, a notice of proposed rule making with respect to the amendment of 26 CFR Part 251 was published in the FEDERAL REGISTER (24 F.R. 3103), to implement changes made in chapter 51, Internal Revenue Code, by the enactment of Public Law 85-859, 85th Congress, and to clarify the provisions in respect of imposition of tax. No objection to the proposed amendments having been received within the 30-day period prescribed in the notice, the regulations as so published are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly this Treasury decision shall be effective on July 1, 1959.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.
RALPH KELLY,
Commissioner of Customs.

Approved: June 9, 1959.

NELSON P. ROSE,
Acting Secretary of the Treasury.

In order to implement changes made in chapter 51, Internal Revenue Code, by the enactment of Public Law 85-859, 85th Congress, and to clarify the provisions in respect of imposition of tax, the regulations in 26 CFR Part 251, "Importation of Distilled Spirits, Wines, and Beer", are amended as follows:

§ 251.8 [Deletion]

PARAGRAPH 1. Section 251.8 is deleted.

PAR. 2. Section 251.40 is amended to read as follows:

§ 251.40 Distilled spirits.

A tax is imposed by section 5001, I.R.C., on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed in such section on each proof gallon or wine gallon when below 100 degrees of proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

PAR. 3. Section 251.41 is amended to read as follows:

§ 251.41 Perfumes containing distilled spirits.

Perfumes imported into the United States containing distilled spirits are subject to the internal revenue tax at the rate prescribed by section 5001, I.R.C., per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

(72 Stat. 1314; 26 U.S.C. 5001)

PAR. 4. Section 251.43 is amended to read as follows:

§ 251.43 Liqueurs, cordials, and similar compounds.

A tax is imposed by section 5001, I.R.C., on all liqueurs, cordials, and similar compounds, containing distilled spirits, in customs bonded warehouse or imported into the United States at the rate prescribed in such section on each proof gallon, or wine gallon when below 100 degrees of proof, and a proportionate tax at a like rate on all fractional parts of such proof gallon or wine gallon. The tax shall be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom. Fortified or unfortified wines, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wines only and are subject to internal revenue tax at the rates applicable to wines.

(72 Stat. 1314, 1331; 26 U.S.C. 5001, 5041)

PAR. 5. Section 251.45 is amended to read as follows:

§ 251.45 Rate of tax.

A tax is imposed by section 5051, I.R.C., on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized in § 251.46. The tax on beer shall be determined at the time of importation, or, if entered into customs custody, at the time of removal from such custody.

(72 Stat. 1333, 1334, 1335; 26 U.S.C. 5051, 5054, 5061)

PAR. 6. Section 251.46 is amended to read as follows:

§ 251.46 Computation of tax.

In computing the tax on beer imported in kegs, a barrel shall be regarded as being a quantity of not more than 31 gallons. The authorized fractional parts of a barrel are halves, thirds, quarters, sixths, and eighths, and beer may be imported only in kegs rated at those capacities. If any barrel or authorized fractional part of a barrel contains a quan-

tity of beer more than two percent in excess of its rated capacity, tax shall be computed and paid on the actual quantity of beer (without benefit of any tolerance) contained in such keg. The tax on beer in any other containers, as for example, bottled beer, will be computed on the basis of actual quantity at the rate prescribed by law.

(72 Stat. 1333; 26 U.S.C. 5051)

§ 251.47 [Deletion]

PAR. 7. Section 251.47 is deleted.

PAR. 8. Section 251.134 is amended to read as follows:

§ 251.134 Proprietors of taxpaid premises.

Importing operations conducted by proprietors of premises qualified under

the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

(68A Stat. 917; 26 U.S.C. 7805)

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